

Inquiry into the Efficiency and Performance of Western Australian Prisons

Final Report

8 October 2015

Economic Regulation Authority

WESTERN AUSTRALIA

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Foreword

The Treasurer asked the ERA to conduct an independent examination of the Western Australian prison system, with the aim of identifying options to improve its efficiency and performance.

We appreciate the opportunity to undertake this important Inquiry. Generally speaking, prisons do not attract as much public interest as other government services (such as schools and hospitals). Nevertheless, there is a strong public interest case for improving the standards of the prison system – for both financial and social reasons.

The State's investment in Western Australia's 13 public and two privately operated prisons is substantial, with a total cost to the State of around \$615 million in 2013-14. It is important to ensure that taxpayers' money is well spent, in delivering these services.

We consider that the quality and performance of the prison system can be improved by strengthening governance arrangements, ensuring a better allocation of existing resources within the system, focussing on evidence-based approaches, and collaborating with the not-for-profit sector and universities. These improvements will lead to better rehabilitation outcomes.

In conducting this Inquiry, we received submissions from, and met with, a range of stakeholders (including people working in the Department and prisons, the not-for-profit sector, unions, and private prison providers), visited six prisons across the State, and considered approaches used in jurisdictions across Australia and around the world.

From these submissions, consultations and investigations, we have formed the view that public prisons in the Western Australian prison system could significantly improve their performance. This conclusion primarily stems from our observations of shortcomings in governance arrangements and in management systems and processes.

In terms of governance arrangements, we consider there is scope to improve clarity about roles and responsibilities between the Department of Corrective Services and Superintendents of individual public prisons. This will help to ensure that key office holders have greater certainty about the bounds of their authority and can be accountable for their decisions and performance. Furthermore, publishing information about the performance of the public prison system will allow for increased external scrutiny and drive improvements in performance.

It is important that the Department is able to make decisions about the management of the prison system based on robust information and analysis. The Department will be able to better understand its current position, plan for the future and allocate resources if it addresses issues with existing operational and administrative management systems.

Prisons that perform to a high standard produce better rehabilitation outcomes. Former prisoners returning to the prison system at high rates adds to the cost of the prison system – costs that might have been avoided, had those prisoners been rehabilitated. We estimate that the prison system as a whole may be spending as much as \$1 million per day on prisoners who have previously served prison sentences and have returned to the system.

Rehabilitation of prisoners also benefits society more generally when prisoners, after being released, have the capacity to be gainfully employed and self-sufficient and not impose an ongoing cost on the welfare and justice systems. Additionally, it avoids imposing social and financial costs on victims of crimes committed by prisoners that have not been rehabilitated.

The two private prisons in Western Australia are generally performing to a high standard, as has been observed by the Inspector of Custodial Services in recent inspection reports of private prisons in Western Australia. The performance reports for each prison tend to

support these findings, although the different performance measures currently applied to public and private prisons do not allow for a direct comparison.

We do not consider that the private sector is inherently better at delivering prison services than the public sector, or that the private sector should be the preferred provider. Rather, private prisons are performing to high standards because they are held to clear and robust standards of accountability and transparency.

In forming recommendations for this Inquiry, the ERA has sought to apply some of the settings of the private system to the public system. Specifically, we have made recommendations in four key areas:

- *Ensuring consistent standards across the prison system* – This set of recommendations is focussed on ensuring that public prisons are held to the same standards of accountability and transparency as private prisons. This can primarily be achieved through Service Level Agreements (and supporting reforms) to establish clearer roles and responsibilities and performance management frameworks (including benchmarks).
- *Performance benchmarks* – The publication of performance benchmarks will help to ensure greater accountability and transparency. The ERA has recommended a set of performance measures for individual prisons and the prison system as a whole, and has prepared a manual explaining how benchmarks should be calculated. We have also recommended a weighted scorecard approach to allow high-level comparisons of prison performance involving the publication of a ‘league table’ of prisons based on benchmark targets that reflect the Department’s priorities for the prison system and expected performance of individual prisons. We have also provided additional options that the Department could apply to further incentivise improvements in prison performance.

Due to the Department’s constraints with data systems and resourcing, the ERA has only been able to calculate a benchmark target for four performance measures. Despite the best efforts of the Department and the ERA, the Department could not provide the necessary data the ERA requires to calculate specific benchmark targets for all performance measures. This is because the data required is either: not currently available; is not available in the granularity required to implement the ERA’s population-adjusted approach to target setting; or because the accuracy of data could not be guaranteed.

- *Encouraging more effective planning, decision-making and use of information* – This set of recommendations is focussed on developing the Department’s capacity to analyse and understand its operations and future needs, improving the integrity of its data and record keeping systems, and adopting a more collegiate and transparent approach to data sharing.
- *Encouraging competition in the prison system* – There is scope to extend competition in the provision of prison services to drive better performance and innovation. We have recommended the introduction of a commissioning model, whereby prisons and prison services can be delivered by a mix of public, private and not-for-profit providers.

We would like to express our appreciation to all who have contributed their time and knowledge to this Inquiry.

Stephen King
CHAIR, ECONOMIC REGULATION AUTHORITY

Summary of key findings

Purpose of this Inquiry

The Terms of Reference for this Inquiry require the ERA to undertake an inquiry into options to improve the efficiency and performance of the Western Australian prison system.

The Terms of Reference establish that the advice provided by the ERA will be based upon economic, market and regulatory principles, and will include advice on the design of appropriate performance standards, incentives and monitoring processes for the prison system.

One of the deliverables of the Inquiry is the development and calculation of a set of benchmarks to allow comparisons of the performance of individual prisons in Western Australia. The Department of Corrective Services (**Department**) will use the benchmarks to identify areas in which the performance of individual prisons could be improved.

A challenge in conducting this Inquiry is that many of the drivers and decisions that affect the cost and performance of the prison system involve parties outside the prison system, and so are beyond the Terms of Reference of this Inquiry.

In particular, the prison system is affected by decisions made by the broader justice and human services systems. These include, for example, decisions on justice policy, policing and sentencing, and decisions on the delivery of human services (including health and mental health, education, child protection, and disability services). Combined, these decisions influence the size of, and growth in, the prison population, the types of prisoner in the system, and the complexity of prisoner needs.

In turn, the performance of the prison system affects the costs and performance of the justice and human services systems. Prisons have a role in ensuring prisoners are capable of functioning in the community upon release. Effective rehabilitation of prisoners will mean that they require less intensive assistance and management in the community, and are less likely to come back into contact with the justice system.

Prisons that achieve good rehabilitation outcomes will alleviate broader costs to Government and taxpayers. The costs associated with preventing and responding to crime include the costs of maintaining other areas of the criminal justice system (police, prosecution and courts) and the lost contribution to the economy of individuals due to their involvement in crime. The Australian Institute of Criminology estimated the cost of crime¹ in Australia totalled \$47.6 billion in 2011.² Victims of crime also incur social and financial losses; successful rehabilitation of prisoners will reduce the likelihood of future crime, and so reduce this burden.

Stakeholders have told the ERA that it is important to consider the interactions between the prison system and the justice and human services systems in conducting this Inquiry. The ERA has sought to do this by considering the broader costs to society of the prison system, rather than just the narrow costs of delivering the prison system. In particular, in its proposed approach the ERA has emphasised the importance of prisons that focus on rehabilitation. While there will inevitably be a trade-off between cost and performance, in the long-term, a more sophisticated approach to managing and rehabilitating prisoners is likely to represent the best value for money to the Government (and hence taxpayers).

¹ Excluding the cost of prisons and community corrections.

² Australian Institute of Criminology, *Counting the costs of crime in Australia: A 2011 estimate*, report prepared by R. Smith, P. Jorna, J. Sweeney and G. Fuller, Canberra, Government of Australia, 2014, p. xiii.

Through submissions, stakeholders have also provided more general comments on the ERA's Draft Report. In particular, stakeholders have made submissions on the ERA's understanding of key issues in the prison system and the ERA's recommendations. The ERA has provided a summary of submissions, and the ERA's response to these submissions, in relevant chapters of this Final Report. The ERA would like to express its appreciation to the individuals and organisations that made submissions to this Inquiry.

Assessment of the prison system

The ERA has observed that there is scope to strengthen the governance arrangements applied to public prisons in Western Australia to improve overall performance of the prison system. In particular, the ERA considers there is a need to:

- *Clarify roles and responsibilities* – Boundaries in the decision-making powers between the Department and Superintendents of public prisons are not clearly defined. Greater formalisation of the relationship between the Department and Superintendents will require changes to the operation of the prison system, and must be supported by appropriate analysis, consultation, and reallocation of resources.
- *Ensure greater accountability* – Accountability in the public prison system can also be improved by clarifying the respective roles and responsibilities between the Department and Superintendents of public prisons. Such clarity will make it clearer who is responsible for specific decisions and outcomes.
- *Provide greater transparency* – Publication of detailed information by the Department will allow all stakeholders to make a robust, independent assessment of the performance of public prisons, and enable informed public debate. In addition, the Department can provide information to service providers working with the prison system to allow them to better assess how well they are performing and improve their service offerings.
- *Address issues with information system, planning and controls* – The Department will be in a better position to plan for the future if it ensures that its information systems are able to provide robust and reliable data, and if it allocates sufficient skilled staff to analyse and apply the findings from this data.

In addition, the ERA has observed that there are some issues with the culture of segments of the workforce in the Department, and of individual public prisons. In particular, the ERA has observed that there is some resistance to change and a reliance on entitlements among some staff. This creates a barrier to reform and the introduction of more effective working arrangements, and can hinder the broader efforts of those staff who are committed to improvement of the prison system.

The ERA considers that strengthening the governance arrangements in the prison system will improve overall performance. These performance improvements are likely to include enhancing rehabilitation outcomes for prisoners, ensuring the effective use of public money in providing prison services, and maintaining appropriate utilisation rates of prisons.³

³ The ERA notes that it is usually desirable for infrastructure to be used at, or close to, its full capacity (that is, a high utilisation rate). However, when prison infrastructure has a very high utilisation rate it can result in occupational health and safety issues for prison officers and prisoners and limit the access of prisoners to programs and services. This reduces prisoner rehabilitation opportunities and is therefore likely to increase recidivism rates. Ideally, prison utilisation rates will be around 85 to 95 per cent of prison capacity to allow for prisoner movements and the needs of discrete prisoner cohorts.

Overview of the proposed approach

The Terms of Reference establish that a key mechanism for achieving an improvement in the efficiency and performance of the prison system will be the development of a performance framework, incorporating service standards, monitoring processes, and incentives.

Consistent with the Terms of Reference, the ERA has recommended:

- *Consistent standards across the prison system* – Public prisons be held to the same standards of accountability and transparency as private prisons. Service Level Agreements (and supporting reforms) will establish clearer roles and responsibilities and performance management frameworks (including benchmarks).
- *Performance benchmarks* – Performance benchmarks be published to introduce greater accountability and transparency. The ERA has identified a set of benchmarks focusing on those core areas of prison performance that Superintendents can and should be expected to influence. The ERA has also recommended benchmarks to apply to the prison system as a whole, recognising that Superintendents cannot influence all important aspects of prison performance.
- *Encouraging more effective planning, decision-making and use of information* – The Department develop its capacity to analyse and understand its operations and future needs, improve the integrity of its administrative data and record keeping systems, and adopt a more collegiate and transparent approach to data sharing.
- *Encouraging competition in the prison system* – Competition in the prison system be extended to drive better performance and increased innovation. The ERA recommends this be achieved through the introduction of a commissioning model, whereby prisons and prison services can be delivered by a mix of public, private, and not-for-profit providers.

Each element is discussed below.

Consistent standards across the prison system

Private prisons in Western Australia are subject to robust governance arrangements. Contracts between the Department and Serco for the management of Acacia and Wandoo establish clear roles and responsibilities, performance targets and consequences for non-performance. The contracts between the Department and Serco establish high levels of accountability and transparency.

The ERA considers that the public prison system would benefit from a similar document formalising the relationship between the Department and each public prison. Such a document would clarify respective roles and responsibilities, and ensure greater accountability and transparency about the performance of each public prison.

Furthermore, the ERA observes a need to clearly define the objectives of each prison in the prison system in order to support robust planning. This will help to ensure that the combined objectives of individual prisons align with the overall objectives of the prison system, allowing the use of prison resources and infrastructure to be optimised.

The ERA recommends that every prison in the public system be subject to Service Level Agreements, containing similar terms and conditions as commercial contracts between the Department and private prison operators.

A Service Level Agreement would set out:

- *Expectations* – The manner in which both parties to the Service Level Agreement will behave and interact with each other, how each party will respond to unexpected events, and the specifications of the prison.
- *Financial agreement* – The level of funding available to the Superintendent for operating the prison, and arrangements for adjusting funding when circumstances change.
- *Performance framework* – The service standards required from the prison, and the performance monitoring framework applied to the prison. Service standards set out the minimum standards that an organisation must meet in delivering its operations.

Service Level Agreements must have particular features to ensure that they are effective. The ERA considers that Service Level Agreements must:

- *Be based upon robust planning* – The Department needs to be clear about what needs to be delivered, and the role of each prison within the broader prison system. The Department must engage in comprehensive forward planning and resource allocation to ensure that the combined objectives of individual prisons deliver the overall objectives of the prison system.
- *Be sufficiently flexible to cope with changing circumstances* – No matter how sound the planning of the Department, circumstances will change that will affect the size and demographics of the prison population. Service Level Agreements should establish clear, good-faith processes for adjusting funding levels for prisons when circumstances change.
- *Be realistic and achievable* – Service Level Agreements must be informed by robust cost information to ensure that Superintendents are capable of delivering the expected services with the funding they have been allocated. The Department does not have robust information on how much it currently costs individual prisons to deliver specific prison services, nor on the efficient cost of delivering those services. Developing this understanding is a foundation step in ensuring that Service Level Agreements are realistic and achievable.
- *Hold Superintendents accountable for aspects of prison operations they can influence* – Currently, Superintendents are not accountable for a range of activities that are undertaken within each prison, such as health and education services. These are managed centrally by the Department. As a consequence, Superintendents have weaker incentives to ensure these services are delivered efficiently. In part, this can be addressed by assessing the performance of Superintendents against benchmarks that measure the aspects of these services that Superintendents can influence.
- *Include appropriate incentives and consequences* – It is important to establish clear incentives for good performance and there are ways to encourage high standards of performance in public prisons. These can include fixed term contracts for Superintendents, allowing prisons to retain a portion of funding generated by industries, and publishing information on the performance of prisons.

Performance benchmarks

The Terms of Reference for this Inquiry require the ERA to develop and calculate a set of benchmarks for prisons. It is intended that the Department will use the benchmarks to assess and compare the performance of individual prisons in Western Australia and identify areas for improvement.

In identifying a set of benchmarks, the ERA has considered the areas of prison performance that should be measured, the characteristics of good benchmarks, and the benchmarks currently used in Western Australia and other jurisdictions (nationally and internationally).

The ERA considers that there are four areas of prison performance that should be measured.

- *Safety and security* – Prison operators are effective in preventing escapes that can pose a threat to community safety, and prison staff and prisoners are safe from harm.
- *Rehabilitation* – Prison operators make a positive contribution to the rehabilitation of prisoners in their care to decrease the likelihood that former prisoners reoffend upon release. Effective rehabilitation of prisoners leads to improved community safety, and savings for the Government in providing prison and other public services (such as law and order, health and welfare services).
- *Prisoner quality of life* – Prison operators treat prisoners humanely and decently, acknowledging that this leads to better outcomes in prisoner rehabilitation and prison safety and security, and recognising that prisoners are held against their will.
- *Prison management* – Prison operators deliver prison services as efficiently as possible to ensure that public funds are not wasted.

These areas of prison performance are consistent with the mission of the Department, which focusses on Security, Safety of Staff, Safety of Prisoners, and Rehabilitation.

The ERA has identified a set of performance measures for each of the four categories that are consistent with the following principles of good benchmarking:

- The prison operator must be able to influence the performance measure used.
- It must be possible to accurately and reliably measure performance.
- The performance measure must not encourage perverse behaviour.

The ERA has also proposed that some performance measures be developed to apply across the prison system, reflecting that some important outcomes can only be influenced by the Department, and not by individual prisons. The ERA has provided a discussion of how the Department's performance in recidivism, utilisation rates, and prison officer engagement could be measured.

The ERA considers that it is not possible to directly compare the performance of different prisons based on unadjusted performance data. This is because of fundamental differences between individual prisons in terms of their characteristics and respective roles in the prison system.

In this Final Report, the ERA has designed a system of benchmarking that will address this issue, and allow the Department to compare the performance of individual prisons. The ERA has recommended a weighted scorecard approach involving the publication of a 'league table' of prisons based on benchmark targets that reflect the expected performance of individual prisons, and on weightings assigned to performance measures and performance categories that reflect the Department's priorities for the prison system. Similar approaches are applied in other jurisdictions, most notably in New Zealand and the United Kingdom.

Under this approach, the ERA has proposed that benchmark targets be adjusted to reflect differences in the composition of each prison's population. In particular, the ERA has proposed that the Department adjust benchmark targets to reflect differences in the security classification (that is, maximum, medium and minimum-security), sentence status (that is, remand or sentenced) and gender of the populations of individual prisons.

The Department will be responsible for determining the relative weights to be assigned to performance measures and performance categories. The ERA has provided guidance on how these weights should be set, noting that they should be consistent with the overall priorities of the Department.

The Department will be responsible for assigning a grade to each prison. A prison's performance grade will be based on its performance against its targets for individual performance measures and the weights assigned to those performance measures and to each of the four performance categories.

Due to the Department's constraints with data systems and resourcing, the ERA has only been able to calculate a benchmark target for four performance measures. Despite the best efforts of the Department and the ERA, the Department could not provide the necessary data the ERA requires to calculate specific benchmark targets for all performance measures. This is because the data required is either: not currently available; is not available in the granularity required to implement the ERA's population-adjusted approach to target setting; or because the accuracy of data could not be guaranteed.

The ERA understands the Department is currently working to address these issues through staff recruitment and a review of its data systems. The ERA considers that this recruitment should be given priority. Additional resources will ensure that the Department is able to provide timely and accurate data to calculate benchmarks in the future.

Effective planning, processes, and use of information

In order to perform well, the Western Australian prison system must be supported by good planning, processes, and use of information. These practices underpin sound, evidence based decision-making. They also determine the capacity of the Department to measure outcomes, and to be transparent about, and accountable for those outcomes.

However, the Department faces a number of longstanding issues with its planning and processes, and in the way in which it collects and uses information to make good decisions. Addressing these issues will assist the Department to perform efficiently and meet its objectives, both now and in the future. The ERA has provided specific recommendations in relation to the Department's planning, processes, and use of information in the following areas:

- *Infrastructure planning* – prison infrastructure is a substantial cost component of the prison system.⁴ Well-defined plans and processes for infrastructure are necessary to ensure that money is well spent and provides the best outcomes for the State. The ERA recommends that the Department: refine its forecasts of the prison population by using a population projection model built by the Department of Treasury in tandem with its present model; establish a long-term plan for prison infrastructure; and ensure that infrastructure expenditure is targeted towards high priority needs.
- *Planning and evaluating program delivery* – the Department is responsible for delivering a range of programs to prisoners. The ERA has identified opportunities for the Department to: better assess and evaluate the program needs of individual prisoners; and better assess, at a system wide level, how effective programs have been at addressing the needs of prisoners collectively.

⁴ For detail on prison infrastructure expenditure in Western Australia, see Department of Corrective Services, *Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p.95.

- *Administrative information and financial management* – The ERA has identified opportunities for improvement of a number of the Department’s administrative systems and processes. The ERA’s recommendations aim to ensure that the Department maintains good control over its funds, staffing arrangements, and records that support the performance and efficiency of the prison system.
- *Information sharing and transparency* – Appropriate information sharing processes and policies can support the good performance, accountability, and transparency of the prison system. The ERA has identified two areas where there are opportunities for the prison system to benefit from better information sharing. These are the way in which the Department shares information with external service providers (particularly providers of post-release services), and the extent to which the Department makes non-personally identifiable data about its operations available to the broader public.

Introducing greater competition to the prison system

The ERA considers that the overall performance of the prison system can be enhanced through greater competition for the opportunity to manage prisons and deliver prison services. Greater competition will provide the Department with more choice in the number and type of providers that are able to deliver the services that best meet Western Australia’s needs.

Greater competition in the delivery of services will encourage better overall performance of the prison system through a wider choice, better quality service offerings, higher levels of innovation, and potentially lower costs.

Some limited competition currently exists for the opportunity to manage prisons and deliver prison services in Western Australia. However, while contracting out the management of individual private prisons has introduced some competition, it does not create competitive pressure in the broader system.

To be clear, by “competition”, the ERA does not mean “privatisation”. The ERA expects that prison management and prison services will continue to be delivered by a mix of public, private, and not-for-profit service providers. It would be a decision for the Department, on a case-by-case basis, to determine which service provider is best able to deliver the services being sought. The ERA emphasises that this decision is one that should address the broader objectives of the prison system, and not simply be a matter of engaging the lowest-cost provider.

The ERA has identified several options for extending competition in the Western Australian prison system.

- *Applying greater competitive tension to in-house service delivery* – Under this approach, the Department would have a greater focus on comparing the performance of individual prisons, using Service Level Agreements and benchmarking. These comparisons, combined with the potential of not renewing the fixed term contracts of Superintendents, would increase competitive tension in the public system. However, competition would remain limited under this approach, because it does not introduce a wider range of potential providers to the market.
- *Direct procurement* – This approach involves the Department entering into a contract with a non-public provider to operate a prison or services within a prison. This would generally be achieved through a tender process that ideally involves multiple potential service providers. This is essentially the approach that has been undertaken to date, in establishing Western Australia’s two private prisons. However, this option does not require Superintendents of public prisons to adjust

their approach to service delivery, since competition is limited only to the prisons or services that are subject to tenders, in which the public sector may not participate.

- *Commissioning* – Under this approach, a Commissioning Division within the Department would determine the outcomes that it wants from a specific prison or prison service, and invite public, private, and not-for-profit providers (or any combination of these groups) to tender for the opportunity to provide these services. Under a commissioning approach, the public sector providers would compile their own tender documents, and compete directly with other providers.

The ERA considers commissioning to be the best approach because it:

- creates the strongest competitive tension by increasing the choice of service providers available to the Department. This is achieved by removing the barriers to competition that prevent public prisons and alternative service providers (private and not-for-profit) from directly competing with each other; and
- requires Superintendents to take a more commercial approach to service delivery, generating system wide improvements.

The ERA is aware that a commissioning approach may create real or perceived conflicts of interest, since the Department would have the role of both a procurer of services and a competitor to deliver these services. The ERA considers that a high degree of probity can be achieved without structural separation of the Department into two entities. However, a ring-fencing arrangement would need to be established between the commissioning and service delivery functions within the Department.

The decisions of the Commissioning Division would need to be overseen by a newly-established independent probity auditor. The probity auditor would participate as an independent observer of tender processes, and would publish a post-tender probity review assessing the fairness of the process. The review could include recommended modifications to processes or Departmental structure to ensure the integrity of future tender processes.

Sequencing of recommendations

The ERA has identified a number of key reforms and associated tasks that should be undertaken to improve the efficiency and performance of the prison system. Some reforms or tasks will need to occur before others, as they form the foundation for subsequent reforms. Other reforms and tasks can occur independently and should be implemented without delay.

The ERA considers that the Department should prioritise the recommended reforms and tasks in the following order.

- *Address issues with information management systems* – The Department will need to address limitations of its information management systems as a first priority. Currently, the Department does not have the information it requires to establish and measure performance standards, including benchmarks, for each prison. In addition, the Department's existing information systems would not permit it to cost individual prison services, which is key to the implementation of Service Level Agreements and commissioning.
- *Implement weighted scorecard approach* – The Department should implement the weighted scorecard approach as soon as it has addressed issues with its information management systems to ensure that the necessary information is available. It is intended that the Department will use the weighted scorecard to assess and compare the performance of individual prisons in Western Australia and

identify areas for improvement. Weighted scorecards may also help to identify prisons that could be prioritised for commissioning.

- *Robust planning of the overall needs of the prison system* – The Department will need to engage in a comprehensive forward planning exercise to ensure that the combined objectives of individual prisons deliver the overall objectives of the prison system as a whole. As part of this process, the Department will need to establish an operating philosophy and objectives for each prison in the estate. This is a key step in the development of Service Level Agreements.
- *Service specification and costing exercise* – The Department will need to conduct a service specification and costing exercise as part of the development of Service Level Agreements. This will involve clearly defining the services to be delivered, and the funding and staffing required to efficiently deliver those services. This is fundamental to ensuring that prisons have sufficient financial and staff resources to deliver expected service levels under Service Level Agreements. This exercise is dependent upon the Department having robust financial information management systems and analytical capabilities.
- *Implement Service Level Agreements* – The preceding reforms and tasks will support the introduction of Service Level Agreements. The ERA considers that Service Level Agreements are a priority reform for the Department because they will formalise the relationship between the Department and Superintendents of public prisons, and improve accountability and transparency of the public prison system. This formalisation is an important precursor to the introduction of commissioning.

A commissioning approach can be implemented once these reforms and tasks have been completed. In addition, there are several key reforms and tasks that must be completed as *part of* the process of implementing commissioning. These include:

- restructuring the Department in order to separate the service delivery division from the commissioning division;
- developing a framework for prioritising prisons and prison services that should be subject to a commissioning process; and
- enhancing the Department's contract management capability.

1 Introduction

1.1 Terms of Reference

This Inquiry has been referred to the ERA under Section 38(1)(a) of the *Economic Regulation Authority Act 2003*, which allows the Treasurer of Western Australia to refer inquiries to the ERA on matters related to industries other than those regulated by the ERA (gas, electricity, rail and water).

The Treasurer gave written notice to the ERA on 9 October 2014 to undertake an inquiry into options to improve the efficiency and performance of public and private prisons.

The Terms of Reference for this Inquiry require the ERA to provide advice based upon economic, market and regulatory principles and to provide advice on the design of appropriate performance standards, incentives and monitoring processes for the prison system.

In conducting this Inquiry, the ERA was required to:

- draw upon new and existing costing models of prison services belonging to the Department of Corrective Services;
- ensure that its findings are informed by other State Government processes related to the prisons system;
- review current administration and performance management practices of public and private prisons in Western Australia; and
- survey inter-State and international experience and literature on the efficient performance management of prisons.

A key deliverable of the Inquiry will be the development and calculation of a set of benchmarks to allow comparisons of the performance of individual prisons in Western Australia. The Department of Corrective Services would use the benchmarks to identify areas in which the performance of individual prisons could be improved. In developing these benchmarks, the ERA was required to:

- take into account different categories of prisons and any other significant operational differences, and the implications these will have for the cost of service provision;
- consider the need for the Department of Corrective Services to be able to update and report on the benchmark on a regular basis;
- prepare a stand-alone document explaining how benchmarks have been calculated; and
- seek to identify ways the Department of Corrective Services could use the benchmark information to improve the performance of the prison system.

1.2 Structure of the Final Report

This Final Report is structured as follows:

- *Chapter 2 – Overview and scope of the Inquiry*: A high-level description of interactions between the prison system and the broader justice and human services systems and an explanation of how the ERA has addressed the Terms of Reference for this Inquiry.

- *Chapter 3 – The prison system in Western Australia:* A description of the prison system, including the office bearers and organisations with key roles in the prison system, the prison facilities operating in Western Australia, operating revenues and expenditures of the prison system and the demographics of prisoners.
- *Chapter 4 – Assessment of the prison system:* A description of the key governance issues in the prison system and their effects.
- *Chapter 5 – Consistent standards across the prison system:* A discussion of the role of Service Level Agreements in incentivising better performance amongst public prisons and the reforms required to ensure that Service Level Agreements are effective.
- *Chapter 6 – Performance benchmarks:* A discussion of the aspects of prison performance that should be measured, a recommended set of performance measures, and proposals for overcoming some of the complexities of comparing the performance of different prisons, including how to set benchmark targets and the introduction of a weighted scorecard for prison performance.
- *Chapter 7 – Effective planning, processes, and use of information:* An assessment of the key information management systems and processes of the Department and the reforms required to support better planning and decision-making.
- *Chapter 8 – Introducing greater competition to the prison system:* A discussion of the role of competition in incentivising better performance in the prison system and how it could be implemented in Western Australia.

1.3 Next steps

The ERA's role is to investigate and form recommendations that address the Terms of Reference of the Inquiry. This role concludes with the presentation of this Final Report to the Treasurer.

The ERA would like to express its appreciation to the many stakeholders that have contributed to the development of this Final Report, through site visits to prisons, submissions, meetings and roundtables.

2 Overview and scope of the Inquiry

2.1 Introduction

The Terms of Reference for this Inquiry require the ERA to identify options to improve the efficiency and performance of the Western Australian prison system.

This Final Report delivers a range of recommendations that outline practical, useful, and achievable steps the Government and Department can take to improve the State's prison system.

The ERA acknowledges that a challenge in conducting this Inquiry is that many of the drivers and decisions that affect the cost and performance of the prison system involve parties outside the prison system, and are beyond the Terms of Reference of this Inquiry. In particular, the prison system is affected by decisions made by the broader justice and human services systems. These include, for example, decisions on justice policy, policing and sentencing, and decisions on the delivery of human services (including health and mental health, education, child protection and disability services). Combined, these decisions influence the size of the prison population, the type of prisoner in the system, and the complexity of prisoner needs.

In turn, the performance of the prison system affects the costs and performance of the justice and human services systems. Prisons have a role in ensuring prisoners are capable of functioning in the community upon release. Effective rehabilitation of prisoners will mean that they require less intensive assistance and management in the community and are less likely to come back into contact with the justice and human services systems.

Prisons that achieve good rehabilitation outcomes may alleviate broader costs to Government and taxpayers. The costs associated with preventing and responding to crime include the costs of maintaining other areas of the criminal justice system (police, prosecution and courts) and the lost contribution to the economy of individuals due to their involvement in crime. The Australian Institute of Criminology estimated the cost of crime⁵ in Australia totalled \$47.6 billion in 2011.⁶

Stakeholders have told the ERA that it is important to consider the interactions between the prison system and the justice and human services systems in conducting this Inquiry. The ERA has sought to do this by thinking about the broad costs to society of the prison system, rather than just the narrow costs of delivering the prison system. In particular, in its proposed approach the ERA has recognised the importance of prisons that focus on rehabilitation. There may be a trade-off between cost and performance, but in the long-term, a more sophisticated approach to managing offenders is likely to represent the best value for money to the Government (and hence taxpayers).

Further than this, it is beyond the scope of this Inquiry to address of the external factors that affect the prison system (such as the high rate of Indigenous incarceration and growth in the prison population).

Instead, the role of this Inquiry has been to conduct an independent examination of the prison system and to make recommendations that are specific to the operation of this system. A particular focus of the Inquiry is to improve the efficiency and performance of the Western Australian prison system by recommending a framework to ensure that: the prison system is held to a high standard of performance; information is made publicly available so

⁵ Excluding the cost of prisons and community corrections.

⁶ Australian Institute of Criminology, *Counting the costs of crime in Australia: A 2011 estimate*, report prepared by R. Smith, P. Jorna, J. Sweeney and G. Fuller, Canberra, Government of Australia, 2014, p. xiii.

that the performance of the prison system can be assessed; and that prisons are held accountable when standards are not met. The ERA has also provided detailed recommendations as to the processes, systems, and specific performance measures needed to support this framework.

The remainder of this chapter is structured as follows:

- a summary of submissions relating to the scope of this Inquiry that were provided in response to the Draft Report;
- an overview of the life-cycle of a prisoner through the human services and justice system, with a focus on the key decision points and decisions-makers that affect the size and composition of the prison population; and
- a discussion of some of the key interactions between the prison system and the human services and justice systems that affect the performance and costs of each.

2.2 Summary of submissions on the Draft Report and ERA response

The ERA received submissions on the Draft Report that discussed the following topics:

- the scope of the Terms of Reference for the Inquiry;
- drivers of demand for prisoner services;
- the rehabilitation objective of the prison service; and
- high rates of Indigenous incarceration in Western Australia.

These topics are addressed below.

2.2.1 Scope of the Terms of Reference

A number of stakeholders raised the narrowness of the Terms of Reference for conducting the Prison Inquiry, including:

- Aboriginal Legal Service of Western Australia (**ALSWA**);
- Community and Public Sector Union and Civil Services Association (the **CPSU/CSA**);
- Kimberley Aboriginal Law and Cultural Centre (**KALACC**);
- Mr Paul Papalia MLA – Shadow Minister for Corrective Services (**Mr Papalia**);
- the Western Australian Association for Mental Health (**WAAMH**); and
- the Western Australian Prison Officers' Union (**WAPOU**).

These stakeholders consider that the narrow Terms of Reference limit the value and benefits of the Inquiry and its findings.

The CPSU/CSA considers that the notion of cost and the efficiency and performance of the Western Australian prison system cannot be debated without a discussion of the social factors contributing to the prison population. The CPSU/CSA considers that a review of submissions indicates that there is broad support for an expansion of the Terms of Reference to:

- include investigation of socio-economic factors, including Aboriginal incarceration rates, driving the increase in the prison population;

- include a whole-of-system approach to improving the efficiency and performance of the justice system; and
- to extend the length of the Inquiry to enable additional public consultation.

Mr Papalia submits that no study of the challenges confronting the prison system can be of value without first considering the drivers of demand on that system. He considers the ERA has an obligation to seek a more expansive Terms of Reference. Mr Papalia submits that continuing to pursue an Inquiry focussed on the best form of managing a system in the absence of assessing the key driver of demand for that system is a waste of taxpayer's money.

WAAMH notes that the ERA acknowledges the relationship between the justice and human services systems and that its task is to think about the broad costs to society of the prison system, rather than just the narrow costs of delivering the prison system. WAAMH submits that prison can worsen mental health, and that poor mental health of prisoners in turn has a negative effect on the good order of prisons. WAAMH states mental health treatment can contribute to improved rehabilitation outcomes. WAAMH recommends the ERA identify ways the Department can address collaboration challenges between the prison and human services systems and integrate its work with the objectives of other human services agencies.

WAPOU notes the ERA's statement that the high rates of Indigenous incarceration and growth in the prison population are out of scope for the Inquiry. WAPOU submits that if recidivism is in scope, then it follows that Indigenous over-representation in the system and the growing prison population should also be considered in scope. WAPOU has the view that the broad mandate for the Inquiry to look at ways to improve the efficiency and performance of the prison system could not sensibly preclude two of its greatest problems.

2.2.1.1 *ERA response*

The ERA considers that the recommendations made as a result of this Inquiry will make a valuable contribution to improving the State's prison system.

The ERA does acknowledge many of the broader issues raised by stakeholders are important considerations that are relevant to the ongoing improvement of Western Australia's justice and human services systems.

The ERA agrees the population of the prison system, and the services the Department is required to deliver, are influenced by factors outside the control of the Department. Department staff have emphasised that the prison system often functions as a service-of-last-resort, accommodating many people with social, substance abuse, and mental health problems that have not been successfully addressed by other services. Reform of services in these areas would inevitably have consequences for the State's prison system, and potentially result in positive social and economic outcomes on a whole-of-government level. Hence, the ERA has been mindful that prisons have no choice as to the prisoners they receive, and has attempted to provide recommendations that will be useful within this constraint.

While this Inquiry specifically focuses on the delivery of prison services, the ERA in no way intends to downplay the potential social and economic benefits of broader human services reform for Western Australia.

2.2.2 *Drivers of demand for prison services*

Several stakeholders comment on factors driving the prison population (and hence demand for prison services).

The ALSWA strongly urges the ERA to recommend that the Government of Western Australia undertake immediate reforms across all departments to reduce the number of people entering prisons and to provide effective strategies to address the causes of offending behaviour.

Mr Papalia and Honorary Professor John Podmore (**Professor Podmore**, of the University of Durham UK) note the effects of justice policy decisions on the prison population. Mr Papalia agrees with the statement made by the ERA in the Draft Report that justice policies that are tough on crime may not be effective on crime (that is, they may lead to an increase in the prison population (and cost) without deterring criminal behaviour or preventing people from reoffending). Mr Papalia instead expresses support for the types of justice reinvestment policies being implemented in the United States, which are aimed at preventing crime and reducing prison populations.

WAPOU likewise advocates that the ERA consider justice reinvestment and restorative justice. WAPOU notes that stakeholders involved in the ERA Inquiry advocate for a coordinated ‘whole of government approach’ to addressing reform in the prison system – as it is evident that the performance of prisons cannot be understood or assessed in isolation from its context in connection with legislature, policy, and other government departments. WAPOU argues any potential opportunities for improving the prison system are relevant for the ERA to at least acknowledge and consider making recommendations for further investigation. WAPOU considers that to do otherwise is to take a blinkered view that ignores the reality of interconnections and to miss opportunities for advancement.

Professor Podmore considers that there is a political component driving up the prison population. He notes that talking ‘tough on crime’ is a vote winner in many jurisdictions. Professor Podmore believes that prisons will become more crowded if this rhetoric is backed up with new laws, harsher sentences and mandatory minimum sentences.

Professor Podmore accepts that democratically elected governments have the authority and responsibility to set justice policy. However, he also states that problems arise when politicians react rather than plan for long-term issues. Professor Podmore notes that Sweden has a greater separation of responsibilities between politicians and the public service, which results in less political interference in policy decisions. Professor Podmore notes that Sweden is currently closing some of its prisons as the prison population declines.

2.2.2.1 *ERA response*

As discussed in Section 2.2.1.1, in providing recommendations specifically related to the operation of the State’s prisons, the ERA does not intend to downplay the importance of policy decisions and delivery of other human services in driving the prison population. Stakeholder submissions received during the course of this Inquiry indicate that there is significant public interest in undertaking review and reform in these areas.

The ERA also notes that the Department of Treasury is currently developing a prison population projection model. This model will improve the Government’s capacity to analyse and understand the effects of both policy and demographic change on prisoner numbers. Such modelling provides an important tool to assist policy-makers in understanding the likely consequences of the policy options available to them. The ERA discusses the model developed by the Department of Treasury in Chapter 7 of this Final Report.

2.2.3 *Rehabilitation objective of the prison system*

Several submitters comment on the ERA’s opinion that rehabilitation should be a primary objective of the prison system including ALSWA, the CPSU/CSA, Professor Podmore, and WAAMH. All agree that rehabilitation should be the primary objective of the prison system.

ALSWA and WAAMH consider that rehabilitation is the most important objective of the prison system because incapacitation only provides short-term protection to the community. In contrast, these organisations consider that rehabilitation can provide long-term and permanent community protection by ensuring that reoffenders do not reoffend once released.

The CPSU/CSA considers that the ERA has underestimated the cost of recidivism by focusing only on cost per prisoner per day, and not on other costs such as policing and legal costs, welfare dependency and costs to the community (for example, property damage and increased insurance premiums).

Professor Podmore considers that the ERA correctly identifies that reducing recidivism is a key to managing the prison population. He notes that Western Australia is typical of many jurisdictions internationally where recidivism rates are unacceptably high and attempts to reduce them are failing.

WAAMH agrees that a more sophisticated approach to managing offenders and a focus on rehabilitation are likely to represent the best value for money for the Government. The ERA states that this has been recognised in an emphasis on rehabilitation in the report. However, WAAMH considers that there is little detail about specific ways to improve rehabilitation in the report other than through benchmarking, and that the ERA includes rehabilitation in only one of its recommendations (being recommendation 8 of the Draft Report relating to measuring rehabilitation in benchmarking).

The Australasian Corrections Education Association (**ACEA**) highlights the importance of education in reducing recidivism, and notes that a reduction in recidivism saves the State money and increases community safety.

2.2.3.1 *ERA response*

The ERA agrees that rehabilitation is a primary objective of the prison system, and that successful rehabilitation saves not only the costs of future incarceration, but many other costs such as those incurred by police and victims of crime.

The ERA notes the concerns of stakeholders, including WAAMH, that the ERA has not made more extensive findings and recommendations aimed at improving rehabilitation outcomes in the prison system.

The Terms of Reference for this Inquiry has required the ERA to provide advice on the design of performance standards, incentives and performance monitoring processes for the prison system. The recommendations made by the ERA in this Final Report are designed to improve the efficiency and performance of the prison system. This includes introducing Service Level Agreements for public prisons, performance benchmarking, advice on improving the Department's planning, processes and use of information, and introducing greater competition through commissioning. The ERA expects that all of these recommendations will lead to a higher standard of service and improve prison outcomes (including better rehabilitation outcomes for prisoners).

The ERA has also made specific recommendations about the Department's processes, analytical capabilities, and collaboration with outside organisations. The ERA considers that implementing these recommendations will allow the Department to continue to improve rehabilitation outcomes. In particular:

- Section 7.3 discusses potential improvements to the Department's processes and procedures for prisoner in-take, allocating prisoners to rehabilitation programs, and monitoring and assessing how effective programs are at meeting the collective needs of prisoners; and

- Section 7.4 discusses potential improvements to the way the Department provides feedback and shares information with post-release service providers to allow them to improve their services and hence rehabilitation outcomes.

The ERA agrees that the prison system will benefit from further research and analysis in this area, and that such research should be a priority for the Department. In Section 7.3.2, the ERA has recommended that the Department seek to work with expert organisations (both within and outside the public sector) to continue to investigate prisoner outcomes. This will allow for ongoing inquiry into the rehabilitation needs of, and outcomes for, Western Australian prisoners.

The ERA notes the comment by CPSU/CSA that the ERA has underestimated the cost of recidivism by focusing only on cost per prisoner per day. The ERA agrees that the cost of recidivism goes far beyond the cost of future incarceration. As stated in the Draft Report:

“Prisons that achieve good rehabilitation outcomes may alleviate broader costs to Government and taxpayers. The costs associated with preventing and responding to crime include the costs of maintaining the remaining areas of the criminal justice system (police, prosecution and courts) and the lost contribution to the economy of individuals due to their involvement in crime. The Australian Institute of Criminology estimated the cost of crime⁷ in Australia totalled \$47.6 billion in 2011.”⁸

As noted in Section 2.3.1 of the Draft Report, good rehabilitation outcomes delivered by the prison system can alleviate costs on the human services system and the criminal justice system.

More broadly, as explained in Chapter 3, the ERA has reconsidered the use of cost per prisoner per day as a performance measure, and does not consider that it is an appropriate nor meaningful measure of performance.

2.2.4 High rates of Aboriginal incarceration

ALSWA, WAAMH and WAPOU consider that the ERA has not devoted sufficient attention to the high rates of incarceration of Aboriginal people in Western Australia and the high rates of recidivism among Aboriginal people. ALSWA submits that the Final Report should make it clear that Western Australia has the highest level of *overrepresentation* of Aboriginal people in prison in the entire nation.

ALSWA and WAPOU also note that the recidivism rate for Aboriginal prisoners is 25 percentage points higher than the non-Aboriginal recidivism rate.

ACEA submits that Australian corrective services agencies often attempt to replicate programs that have been effective in European prisons, and notes that these programs are generally not designed to meet the needs of Aboriginal prisoners. ACEA also notes that there are many different Aboriginal cultures in Western Australia, and that it is important to take this into account when designing effective programs and services.

2.2.4.1 ERA response

The ERA notes concerns raised by stakeholders that the ERA has not devoted sufficient attention to the high rates of incarceration of Aboriginal people in Western Australia and the high rates of recidivism among Aboriginal people. The ERA has sought to address this

⁷ Excluding the cost of prisons and community corrections.

⁸ Australian Institute of Criminology, *Counting the costs of crime in Australia: A 2011 estimate*, report prepared by R. Smith, P. Jorna, J. Sweeney and G. Fuller, Canberra, Government of Australia, 2014, p. xiii.

concern, to the extent that it was possible in the available timeframe, in this Final Report. This has included amendments to:

- Section 3.7.1 to better reflect the overrepresentation of Aboriginal people in Western Australian prisons (as discussed below);
- Chapter 7 to address the need for programs to be culturally appropriate; and
- Chapter 8 to discuss the need for the Department to engage more closely with Aboriginal organisations in delivering services to Aboriginal people.

The ERA agrees that Aboriginal people are significantly overrepresented in prisons across Australia. The ERA also agrees that overrepresentation of Aboriginal people in prisons is most severe in Western Australia. In Section 3.7.1 of this Final Report, the ERA has presented the ratio of the percentage of the prison population that is Indigenous (that is, including Torres Strait Islanders) over the percentage of the general adult population that is Indigenous, for each State and Territory and nationally. The ratio of these two figures measures the extent to which Indigenous Australians are overrepresented in prison relative to the proportion of Indigenous people in the general population.

The ratios indicate that Indigenous Australians are overrepresented in the prison population in every Australian jurisdiction (as reflected by a ratio above one). However, Western Australia has the highest ratio at 13.8, indicating that it has the highest level of overrepresentation. In contrast, while the percentage of the prison population that is Indigenous is highest in the Northern Territory (at 85.6 per cent), the Northern Territory has the lowest rate of overrepresentation, with a ratio of 3.4.

The ERA notes the point made by ALSWA and WAPOU that the recidivism rate for Aboriginal prisoners is 25 percentage points higher than the non-Aboriginal recidivism rate.⁹ Stakeholders have also told the ERA that rehabilitation and other programs are not culturally appropriate for Aboriginal people.¹⁰ This may result in Aboriginal prisoners completing programs at lower rates than non-Aboriginal prisoners.

The ERA considers that it is appropriate for the Department to ensure that the programs and other prison services that it delivers to Aboriginal people are culturally appropriate and result in outcomes for Aboriginal people that are at least in line with outcomes achieved for non-Aboriginal prisoners. This would include giving specific consideration to social, language and other needs specific to the State's various Aboriginal cultures in designing programs and services, and seeking to identify approaches that have been effective in jurisdictions with a similarly high Indigenous prison population.

The ERA agrees with ACEA that it is important to recognise that Western Australia is home to many different Aboriginal cultures and language groups. This should be considered when designing programs and engaging with Aboriginal organisations, in order to maximise effectiveness and value of programs and services. For example, where feasible, procuring services from a local not-for-profit organisation with relevant cultural knowledge and language skills may be prove a better use of resources than bringing in an organisation based in another part of the State. Section 8.7.6 of Chapter 8 discusses engagement with Aboriginal service providers.

⁹ Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, Perth, Government of Western Australia, 2014, p. ii.

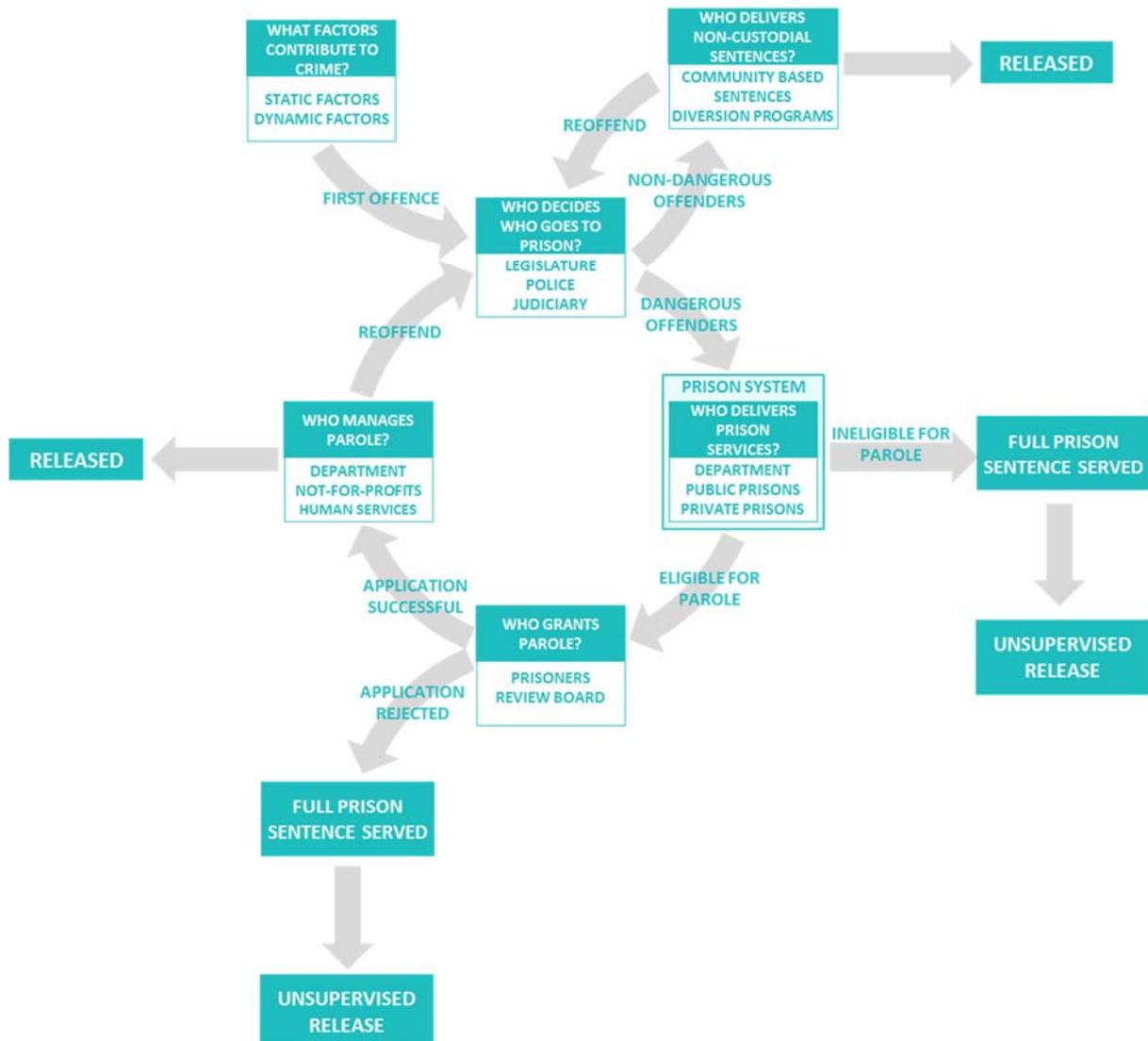
¹⁰ See submissions received to the ERA's Issues Paper from the Aboriginal Legal Service of Western Australia and the joint submission from the Western Australian Council of Social Services, Western Australian Association for Mental Health, and Western Australian Network of Alcohol and other Drug Agencies.

2.3 Key decision points and decision-makers affecting the prison system

Figure 1 illustrates the potential pathways of a notional offender through the justice and prison systems and the key drivers and decision points that influence that journey.

Figure 1 Key decision points and decision-makers affecting the prison system

2.3.1 What factors contribute to crime?



An offender's journey often commences well before their first offence is ever committed.

The likelihood of an individual committing crime can be partially explained by criminogenic factors.¹¹ Criminogenic factors are broadly categorised as:

¹¹ E.J. Latessa and E Lowenkamp, 'What are Criminogenic Needs and Why are they Important?', *For the Record*, vol. 15, no. 5, 2005, pp. 15-16.

- Static factors, which remain unchanged over time. Neither the offender nor the justice system are able to modify these factors. Examples of static criminogenic factors include age, criminal record and foetal alcohol syndrome.¹²
- Dynamic factors, which can change over time. Dynamic factors are also known as 'criminogenic needs'. Examples of dynamic factors include employment status, substance abuse and education level. Intervention programs targeted at addressing these dynamic factors are key elements of effective rehabilitation.¹³

Human services (including health and mental health, education, child protection and disability services) have an important role in preventing or addressing criminogenic factors and diverting people away from the criminal justice system.

"The majority of prisoners worldwide come from economically and socially disadvantaged backgrounds. Most live in poverty, are illiterate or have limited education and will have experienced unemployment and lack of housing, which in turn may have contributed to the breaking up of their families, drug and alcohol abuse, among other destructive consequences of their socio-economic marginalization. Such circumstances and dependencies can contribute to individuals' confrontation with the criminal justice system, unless sufficient support systems are in place. These may include social welfare assistance, support for housing, employment and treatment for substance dependencies and mental healthcare needs, among others, to help people to overcome such challenges and live positive, self-supporting lives."¹⁴

2.3.2 Who decides who goes to prison?

The Government and various public sector agencies make decisions that influence the size and composition of the prison population.

The Government and Parliament are responsible for setting justice policy. This includes enacting legislation that defines the crimes punishable by a custodial sentence, maximum sentences and mandatory sentencing for certain offences.

The resourcing and strategy of the Western Australia Police influences the number of people arrested and charged and therefore who may ultimately be imprisoned.

The Office of the Director of Public Prosecutions has a role in determining which cases appear before the judiciary (and thus who may be sentenced to prison) by prosecuting serious offences made against State criminal law.¹⁵

The judiciary (that is, judges and magistrates) have some discretion over sentence length. The judiciary determines whether a prisoner will be eligible for parole and the programs they are required to complete during a prison sentence. Prior to sentencing, a court may request a Pre-Sentence Report from the Department.¹⁶ The report assists the judiciary in deciding a sentence (and, possibly, the programs the offender must complete in prison) that takes into account the offender's personal circumstances.

¹² A. M. Viens, J. Coggon and A. Kessel, *Criminal Law, Philosophy and Public Health Practice*, Cambridge, Cambridge University Press, 2013, p. 183.

¹³ D. A. Andrews, J. Bonta and J. s. Wormith, 'The recent past and near future of risk and/or need assessment', *Crime and Delinquency*, vol 52, no. 1, 2006, pp. 7–27.

¹⁴ United Nations Office on Drugs and Crime, *Handbook on strategies to reduce overcrowding in prisons*, New York, United Nations, 2013, p. 20.

¹⁵ Office of the Director of Public Prosecutions for Western Australia, 'About the ODPP', Perth, Government of Western Australia [Accessed May 2015]

¹⁶ Department of Corrective Services, *Fact Sheet: Pre-sentence Report Order*, Perth, Government of Western Australia, 2010, p. 1.

2.3.3 Who delivers non-custodial sentences?

The judiciary has a range of non-custodial options available to it, including community-based sentences and court diversion programs. These non-custodial sentences are generally only given to offenders who are not considered a danger to community safety.

The Department employs community corrections officers, who are responsible for ensuring that offenders meet the requirements imposed by the judiciary. An offender may access a range of human services provided by both the Department and the not-for-profit sector while on community corrections.

Non-custodial sentences come at a significantly lower cost to taxpayers than prison sentences. It costs approximately \$50 per offender per day to provide community corrections to an adult, while the cost of keeping a prisoner in custody is around \$332 per day.¹⁷

2.3.4 Who delivers prison services?

The Department and individual prisons (both public and private) comprise the core prison system, which is the focus of this Inquiry. A more detailed overview of the Western Australian prison system is provided in Chapter 3 of this Final Report.

The Department is responsible for designing and delivering rehabilitation programs in prisons. Prison officers have a role in encouraging prisoners to attend and complete these programs so prisoners have a better chance of being granted parole when they become eligible to apply.

Prisoners deemed ineligible for parole during sentencing are released into the community unsupervised and only after having served their entire prison sentence.

2.3.5 Who grants parole?

The Prisoners Review Board (**PRB**) is responsible for reviewing and subsequently, either granting or refusing parole applications. The PRB does not determine who is eligible to apply for parole; this is the role of the judiciary.

The PRB makes its decisions on a case-by-case basis by reviewing the prisoner's parole plan, which is a requirement of each application. The PRB takes into account each prisoner's personal circumstances when making its decision. These include the efforts the prisoner has made towards rehabilitation while in prison, and intended accommodation and plans for employment or training while on parole.

2.3.6 Who manages parole?

Former prisoners serve parole under the supervision of Department staff and contractors, because parole is part of their sentence. While on parole, former prisoners have access to a range of human services as part their parole plan, including services related to employment, education and training, and housing. The Department has contracted with the not-for-profit sector to deliver post-release support to prisoners on parole.

¹⁷ Department of Corrective Services, *Annual Report 2014-15*, Perth, Government of Western Australia, 2015, pp. 129-130.

2.4 Interactions between the prison system and the justice and human services systems

There are many interactions between the prison system and the broader justice and human services systems. The performance of one system affects the costs and performance of other systems, and hence overall cost to Government and taxpayers.

In the following sections, the ERA provides a high-level description of some of the key interactions between the prison system and the justice and human services systems that influence the cost and performance of these systems.

The ERA considers that it is within scope for this Inquiry to make recommendations for the prison system that will alleviate cost pressures on the justice and human services systems.

However, the ERA considers that it is out of the scope of this Inquiry to make recommendations for the justice and human services systems to alleviate cost pressures on the prison system. However, an understanding of the effects of the justice and human services systems is useful to inform consideration of the efficiency and performance of the prison system.

2.4.1 Influence of the prison system on the justice and human services systems

Prisons that achieve good rehabilitation outcomes may alleviate broader social and economic costs to the Government and taxpayers. Effective rehabilitation of prisoners reduces the likelihood that they will reoffend, leading to improved community safety. Reducing reoffending can also result in cost savings in providing human services, justice services and prison services through:

- *Reduced reliance on the human services system* – Prisons have a role in teaching prisoners to be self-sufficient upon release, rather than imposing an ongoing cost on the human services system. For example:
 - Prisons can have a role in addressing the alcohol and other drug (AOD) issues of prisoners through rehabilitation programs. It is estimated that around 62 per cent of prisoners in Western Australia have AOD issues.¹⁸ Addressing these issues may relieve cost pressures on human services, including health, mental health and child protection. For example, the Department of Child Protection estimates that around 57 per cent of its clients have AOD problems.¹⁹
 - Prisons can increase the chance of former prisoners securing and maintaining employment, by providing education (particularly literacy and numeracy), training (including trade skills) and by instilling work ethics and attitudes (such as responsibility and reliability). This can reduce costs to society because former prisoners that secure employment are less likely to reoffend²⁰ and will have less dependence on the welfare system.

¹⁸ Parliamentary Education and Health Standing Committee, *Alcohol: Reducing the Harm and Curbing the Culture of Excess*, Perth, Parliament of Western Australia, 2011, p. 235.

¹⁹ Parliamentary Education and Health Standing Committee, *Inquiry into the Adequacy and Appropriateness of Prevention and Treatment Services for Alcohol and Illicit Drug Problems in Western Australia*, Transcript of Evidence by Mr Terry Murphy (Director General, Department of Child Protection), Perth, Parliament of Western Australia, 18 August 2010, p. 1.

²⁰ Colorado Division of Criminal Justice and Colorado Department of Public Safety, *What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs: A Compendium of Evidence-Based Options*

- *Fewer interactions with the justice system* – Effective rehabilitation in prison can lower the rate at which former prisoners come back into contact with the justice system. There are significant costs associated with preventing and responding to crime, including the costs of police, prosecution and court services. In addition, there is the lost productivity of offenders due to their involvement in crime.
- *Decreasing the prison population* – Currently, 36.2 per cent of prisoners in Western Australia return to prison within two years of release.²¹ The cost of the prison system can be significantly reduced by lowering the rate at which prisoners return.

The ERA has sought to recognise the importance of prisons that focus on rehabilitation in its proposed approach outlined in this Final Report. There may be a trade-off between cost and performance, but in the long-term, a more sophisticated approach to managing offenders is likely to represent the best value for money to the Government (and hence taxpayers).

The priorities of the Department of Corrective Services are consistent with the ERA's proposed approach. That is, a focus on:

- the security of detainees and prisoners in correctional facilities and offenders in community based orders;
- the safety of its people;
- the safety of offenders, detainees and prisoners; and
- rehabilitation.

By effectively managing safety and security issues, prisons are able to provide an environment that allows prisoners to participate in rehabilitation programs, education and training with minimal disruptions.

2.4.2 Influence of the justice and human services systems on the prison system

Decisions made by governments and various public sector agencies in the justice and human services systems influence the size and complexity of the task of the prison system, and hence its costs and performance.

Some stakeholders have told the ERA that governments and public sector agencies often do not apply a whole-of-government approach (that is, they do not consider the implications of decisions on broader costs to government and society), which may have significant consequences for the prison system.²² These consequences may include significant growth

for Preventing New and Persistent Criminal Behaviour, report prepared by RKC Group (R. Pryzbylski), Colorado, Colorado State Government, 2008, p. 29.

²¹ Department of Corrective Services, *Department of Corrective Services Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 45.

²² This reflects comments made by some stakeholders that attended the Public Roundtable held by the ERA on 21 April 2015. Chatham House rules were applied at this roundtable.

in the prison population²³ and over-representation of Aboriginal people in the prison system.²⁴

The Government of Western Australia and Parliament (by enacting legislation) are responsible for justice policy decisions, including determining which crimes are punishable by a custodial sentence and maximum sentences for people convicted. These decisions affect the prison system by influencing who is imprisoned and for how long. Justice policy decisions may also have a disproportionate effect on specific demographic groups, including women and Aboriginal people.

As a general observation, the policy decisions of governments (and opposition parties) may be a response to expectations of the electorate that governments will ensure a high degree of community safety. This expectation may result in governments and opposition parties advocating justice policies that are 'tough on crime' (that is, policies that apply a strong punitive approach in order to discourage crime).

However, justice policies that are 'tough on crime' may not be effective on crime.²⁵ That is, the policies may lead to an increase in the prison population (with the consequent increased cost), without delivering benefits in the form of deterrence to criminal behaviour,^{26,27} or preventing people from reoffending.²⁸

The Prisoners Review Board has a degree of discretion in interpreting prisoner release considerations outlined in legislation. This can affect the rate at which prisoners are granted parole, and hence the overall population and cost of the prison system. Currently, only a relatively small proportion of eligible prisoners are being released on parole, meaning that more prisoners are serving longer sentences.²⁹

²³ The Western Australian prison population grew by 32.3 per cent between 2007-08 and 2013-14, compared to general population growth of 19.5 per cent over the same period. Source: Australian Bureau of Statistics, 3101.0 - Australian Demographic Statistics, Mar 2014, Canberra, Government of Australia, 2014, Table 4. Calculated for the period December 2007 to December 2013.

²⁴ In Western Australia, Aboriginal people account for 39.7 per cent of the prison population while only comprising 2.9 per cent of the general adult population. Source: *ERA analysis and Australian Bureau of Statistics, Australian Bureau of Statistics, 4517.0 – Prisoners in Australia, 2014, Canberra, Government of Australia, 2014, Table 13 and 3238.0 – Estimates and Projections, Aboriginal and Torres Strait Islander Australians, 2001 to 2026, Canberra, Government of Australia, 2014, Series B, 18 years and over and Australian Bureau of Statistics, 3101.0 – Australian Demographic Statistics, Dec 2014, Tables 51-59.*

²⁵ The Australia Institute, *Tough on crime: The rhetoric and reality of property crime and feeling safe in Australia*, report prepared by D. Barker, Canberra, The Australia Institute, 2013, p. 3.

²⁶ D. Indermaur, "'Tough on crime" a waste of time – let's be effective instead', *The Conversation*, 31 March 2011, <http://theconversation.com/tough-on-crime-a-waste-of-time-lets-be-effective-instead-265>, (accessed 30 June 2015).

²⁷ The ERA is aware of studies that suggest imprisonment is an expensive and ineffective response to crime. Research shows that imprisonment does not effectively deter criminal behaviour. Source: Sentencing Advisory Council, *Sentencing Matters: Does Imprisonment Deter? A Review of the Evidence*, Melbourne, Government of Victoria, 2011, p. 14.

²⁸ Some studies suggest that imprisonment is not the most effective solution for preventing people from reoffending (that is, following release from prison). The Victorian Sentencing Advisory Council found that people who have been imprisoned are the most likely to offend and reoffend soonest. In contrast, people who have participated in criminal justice diversionary programs are the least likely to reoffend and will refrain from offending the longest. Source: Sentencing Advisory Council, *Reoffending Following Sentencing in the Magistrates' Court of Victoria*, Melbourne, Government of Victoria, 2013, p.14.

²⁹ When Justice Narelle Johnson commenced as Chairperson of the Prisoners Review Board in 2009, parole decreased. Eighty five per cent of eligible prisoners were granted parole in 2007-08 and only 30 per cent in 2009-10. The Board changed again in 2012 when His Honour Judge Robert Cock QC took over as Chairperson. While parole rates have increased slightly, only 36 per cent of eligible prisoners were granted parole in 2013-14. Source: Prisoners Review Board of Western Australia, *Annual Reports 2007-08 to 2013-14*.

Stricter parole decisions may also increase the rate at which former prisoners return to the prison system. Less support is available to prisoners who have completed their sentence (that is, not released on parole), because prisoners who have served their entire sentences in prison are released unsupervised and without conditions. Some studies show that prisoners released on parole, and under supervision are less likely to reoffend.³⁰ A higher proportion of prisoners released into the community may be conducive to high rates of rehabilitation and ultimately lowering the cost of the prison system.

Government has a positive role in diverting people away from the justice and prison systems, using targeted interventions by human service agencies.³¹ These interventions are generally aimed at addressing criminogenic factors. Human services agencies also have a role in assisting prisoners to reintegrate into the community upon release.³²

However, challenges in the delivery of human services may result in people entering or returning to the justice and prison systems at higher rates, and potentially imposing greater costs on society. These challenges may include: inadequate funding for services³³; poorly targeted services³⁴; complexities associated with Australia's federal system of government³⁵; and delivering services to Western Australia's geographically dispersed population³⁶.

The case study of the Djarindjin Women's Safe House demonstrates how challenges associated with Australia's federal system of government and Western Australia's large geographical area may affect the costs to the Government of Western Australia of delivering prison and justice services.

³⁰ Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, Perth, Government of Western Australia, 2014, p. 6.

³¹ For example, all new parents in Western Australia receive a home visit from a community child health nurse. The community health nurse assesses the health of the newborn, the environment in which they are being brought up, and how well its parents are coping. This provides an opportunity for early intervention and assistance should it be required. Source: Department of Health, *Welcome to your new baby*, Perth, Government of Western Australia, 2013, p. 3.

³² For example, access to secure housing is a key factor to helping to ensure that prisoners do not reoffend. The Department of Housing is responsible for providing some public housing in Western Australia.

³³ For example, there is a shortage of secure mental health beds outside of the prison system capable of housing prisoners with acute mental health conditions. Prisoners that cannot be accommodated are returned to the prison system. The prison environment may exacerbate unresolved problems.

Source: Mental Health Commission, *The Western Australian Mental Health, Alcohol and other drug services plan 2015-2025*, Perth, Government of Western Australia, 2014, p. 66.

³⁴ Funding for service delivery may be focussed on one issue to the exclusion of other issues. For example, concerns have been expressed that child neglect and emotional abuse cases are largely ignored, despite accounting for two-thirds of child protection reports. This may result in higher rates of imprisonment as abused children are nine times more likely to conduct criminal activity as adults. Source: J. Gold, M.W. Sullivan and M. Lewis, 'The relation between abuse and violent delinquency: The conversion of shame to blame in juvenile offenders', *Child Abuse & Neglect*, vol. 35, no. 7, 2011, pp. 459-467.

³⁵ Cuts to programs by one level of government (for example, the Federal Government) may increase demand for services provided by another level of government (for example, the State Government).

³⁶ Western Australia's population is spread over a large geographical area. Delivering services to small and remote communities is expensive and challenging. This may particularly disadvantage Aboriginal people who are more likely to live in remote communities and are more likely to be reliant on government services. The ABS estimates that 43 per cent of Aboriginal Western Australians live in remote or very remote areas, 23 per cent in regional centres and the remaining 34 per cent in the metropolitan area.

Source: *Australian Bureau of Statistics, 4713.0 – Population Characteristics, Aboriginal and Torres Strait Islander Australians*, 2006, Canberra, Government of Australia, 2010, Table 2.4.

Box 1 - Djarindjin Women's Safe House

In the 2015-16 Budget, the Federal Government decided to withdraw funding for the Djarindjin Women's Safe House. This is likely to result in the closure of the facility at the end of the 2014-15 financial year.³⁷

The Safe House is a domestic violence shelter servicing the women of 50 Aboriginal communities in Western Australia's far north. The nearest domestic violence shelter is 200 kilometres away in Broome. Many women are unable to make the two-and-a-half hour journey to the facility in Broome, because they do not own cars.

Ongoing cycles of family violence and the lack of a place of refuge will increase the risk of domestic abuse of women and children. The decision by the Federal Government to withdraw support from the shelter may also have implications for the costs imposed on the justice and prison system, which is funded by the State Government.

Evidence shows that exposure to domestic violence during childhood can perpetuate the cycle of crime. Children from violent homes may be more likely to display attitudes and behaviours that reflect their childhood experiences of witnessing domestic violence.³⁸ Intervention aimed at breaking the intergenerational cycle is targeted at influencing a child's perception of what constitutes acceptable behaviour and attitudes towards women.

The potential increase in a child's exposure to domestic violence resulting from the closure of this facility is therefore likely to lead to greater costs to the state. Withdrawal of Federal funding puts pressure on State Government services (for example, police and health services) to fill in the "gap" left behind to protect victims of domestic violence.

³⁷ E. Parke and L. Martin, 'Funding cut for remote Aboriginal domestic violence shelter will 'put lives at risk'', *ABC News*, 18 May 2015, <http://www.abc.net.au/news/2015-05-17/funding-withdrawal-puts-indigenous-womens-lives-at-risk/6476132>, (accessed 30 June 2015).

³⁸ Australian Institute of Criminology, *Trends & Issues in Crime and Criminal Justice no 419: Children's exposure to domestic violence in Australia*, report prepared by K. Richards, Canberra, Australian Government, 2011, p. 3.

3 The prison system in Western Australia

3.1 Introduction

The purpose of this chapter is to provide an overview of the Western Australian prison system. This chapter is set out as follows:

- a summary of submissions relating to the prison system that were provided in response to the Draft Report;
- an overview of the components of the core prison system and organisations with a significant influence on the prison system, including the powers of key officials and the role of the entities that influence the system;
- an overview of the prisons operating in Western Australia;
- the current allocation of roles and responsibilities for delivering prison services between the Department and individual prisons;
- details of the financing arrangements of the prison system; and
- an overview of the Western Australian prison population, its demographics and rates of reoffending.

3.2 Summary of submissions on the Draft Report and ERA response

The ERA received submissions from stakeholders on the Draft Report discussing the following topics:

- the role of the CPSU/CSA in the prison system;
- cost drivers in the prison system;
- the costs of operating the prison system; and
- the growth in Western Australia's prison population.

In the following sections, the ERA provides a summary of the submissions from stakeholders on each of these topics and the ERA's response

3.2.1 *Role of the CPSU/CSA*

The CPSU/CSA states that the Draft Report does not acknowledge the public servants allocated to prisons. The CPSU/CSA has a role, in conjunction with the Department, in identifying appropriate positions and resource allocations.

3.2.1.1 *ERA response*

The ERA acknowledges this oversight and has added text on the role of the CPSU/CSA in the relevant sections of the Final Report.

3.2.2 *Cost drivers of the prison system*

Professor Podmore notes that there are three key drivers to cost in the prison system: the size of the prison population; security conditions in which individual prisoners are held; and

the services and interventions made available to prisoners. He considers that the ERA attempts to transplant bureaucratic solutions from other jurisdictions rather than examining and questioning these drivers.

Professor Podmore notes that the use of remand³⁹ affects the size of the prison population. He suggests that the ERA examine whether remand is being used appropriately given that nearly one quarter of the prison population is on remand at any one time. In particular, he notes that low conviction rates may suggest remand is being used as an unofficial punishment rather than to support the legal process and protect the public.

Professor Podmore submits there is a direct correlation between the cost of incarceration and the security conditions in which a prisoner is held. Professor Podmore notes that the ERA has acknowledged that prisoners should be held in the lowest appropriate security conditions for cost and decency reasons, but it fails to develop this vital issue further.

He submits that jurisdictions tend to build new prisons to a medium-high security standard and on a zonal base (for example, operating a high security prison within a prison). Professor Podmore states that these practices usually mean incurring unnecessary costs. Professor Podmore's view is that while the prevention of escapes is vital to the safe running of prisons and to public confidence, an overemphasis on security can dramatically increase costs and reduce efficiency.

Professor Podmore submits that the ERA notes the illogical nature of high secure escorts of prisoners to hospital after they have been regularly and successfully working outside of prisons, but fails to develop the issue of over-securitisation as a driver of inefficiency and unnecessary costs. He notes that absconds from minimum-security prisons, work camps and working out programs can skew policies and procedures and drive inefficiencies. He states that police respond by describing absconders as dangerous when an entire prison system, by placing them in such conditions, has established their risk to the public to be low.

3.2.2.1 *ERA response*

The ERA notes the substantive points raised by Professor Podmore, which cover:

- identification of cost drivers in the prison system;
- the number of remand prisoners in the Western Australian prison system; and
- the appropriateness of the extent to which the Department focuses on security.

The ERA has addressed each of these issues below.

Cost drivers

The ERA has incorporated an expanded discussion of cost drivers in the Final Report, and addresses the role of both prisoner numbers and prisoner types (including but not limited to security classification) in driving prison costs, and has identified several additional drivers, as detailed in Section 3.6.4. However, the ERA also notes that while prison facilities with higher security levels are generally considered more expensive than lower security facilities, almost all facilities in Western Australia accommodate a mix of prisoners of various security classifications.

The ERA does not consider 'services and interventions made available to prisoners' to be a cost driver, as these are activities in themselves, rather than drivers (drivers being factors that change the cost of activities).

³⁹ That is, holding a defendant in custody before their trial or sentencing.

Remand prisoners

The ERA agrees that the remand population makes up a substantial portion of the overall prison population in Western Australia, but is not placed to investigate whether remand is used as an ‘unofficial punishment’ in the wider justice system. This question falls outside the scope of this Inquiry, as the decision to place prisoners on remand is not made within the prison system. However, the ERA does note that the percentage of remand prisoners in Western Australia does not appear to be materially different to that in most other Australian jurisdictions.⁴⁰

Focus on security

The ERA agrees that there should not be an excessive focus on security. The ERA has tried to take this into account in developing the benchmarks and targets for security.

From the ERA’s discussions with Departmental officers, it is evident that the Department is designing flexibility into the prison system. This includes, for example, designing prisons, prison buildings and prison cells that can be applied to different uses (depending on demographics of the prison population).

The ERA considers this to be appropriate, even if it does add some additional cost to the prison system. Departmental officers have told the ERA that they are in the process of developing standards for prisons with different security levels. Departmental officers have also advised that, in practice, standards for maximum and medium-security cells are very similar, as they are moving to a model of ‘open’ (currently minimum-security) and ‘closed’ (currently medium and maximum-security) accommodation. This will provide more flexibility in the use of closed accommodation.

3.2.3 Costs of operating the prison system

Several submitters comment on the cost of operating the prison system in response to the ERA’s Draft Report. Both the CPSU/CSA and Mr Papalia highlight the need for further analysis, and provision of a more detailed breakdown of the Department’s costs.

Submissions from the CPSU/CSA, and from Associate Professor Jane Andrew, Dr Max Baker and Dr Philip Roberts (hereafter **Andrew et al**) also highlight the fundamental differences between the privately operated Acacia prison and the State’s public prisons, noting that cost per prisoner per day may be an inappropriate measure of prison performance as a result of these differences. Andrew *et al* submit that examples of these differences include security classifications of prisoners, presence or absence of remand prisoners, geographical differences, age of individual prison facilities and their organisational layouts. Andrew *et al* and Mr Papalia also note the relevance of the *Management of Prisoners on Bail* report released by the Office of the Auditor General in June 2015, which provides detail on the high cost of accommodating remand prisoners.

Finally, all three submitters raise the issue of allocating costs across prisons, where those costs are not directly attributable to a single facility, querying the approach adopted by the Department and in particular the issue of cost allocation between public and private prisons. Andrew *et al* also emphasise the need for the Department’s costs and cost allocations to be made more transparent.

⁴⁰ Australian Bureau of Statistics, *4517.0 – Prisoners in Australia 2014*, Canberra, Government of Australia, 2014.

3.2.3.1 *ERA response*

Since publishing the Draft Report, the ERA has undertaken a cost modelling exercise to better understand the costs incurred by the Department and their allocation to individual prisons. The results of this cost modelling are detailed in Section 3.6 and Appendix 3.

The ERA has also reconsidered its recommendation in the Draft Report that cost per prisoner per day should be used as a measure of prisoner performance. Cost per prisoner per day (on both a system wide and individual prison basis) provides important information to both management and stakeholders about the cost drivers of the prison system, and the outcomes of investment and policy decisions. However, the ERA agrees that cost per prisoner per day is an inappropriate measure of prison performance, particularly in Western Australia where few, if any, prisons are directly comparable. Consequently, the ERA does not recommend this measure be used to benchmark the performance of individual prisons.

With regard to the issue of cost allocation, the ERA agrees that appropriate allocation of overhead costs is essential to performing cost modelling that is meaningful and useful, as allocated costs are a substantial component of cost per prisoner per day (approximately one third of total costs in 2013/14⁴¹). The ERA further agrees that the Department's approach to cost allocation should be transparent. The ERA has revised this chapter to include a discussion of these issues.

3.2.4 *Growth in prison population*

Mr Papalia notes the renewed surge in the Western Australian prison population in the past 18 months is not included in the Draft Report. He considers this masks the true extent of recent growth. He further notes that growth in the adult prison population has been more than double the rate of population growth in the past seven years and the Department forecasts continued growth in the prison population of 4.4 per cent per annum until 2019/20.

3.2.4.1 *ERA response*

The ERA has incorporated updated data on recent increases in the Western Australian prison population in Section 3.2.4.

3.3 *Overview of the prison system*

The ERA has defined the core prison system (for the purposes of conducting this Inquiry) as being comprised of:

- the “head office” of the Department of Corrective Services;
- the 13 adult prisons operated by the Department of Corrective Services; and
- the two adult prisons (Acacia Prison (**Acacia**) and Wandoo Reintegration Facility (**Wandoo**)) that are currently operated by Serco Australia (**Serco**).

The Department retains responsibility for the entire prison system (as depicted in Figure 2 below). The Department's responsibility for Acacia and Wandoo does not diminish because it has contracted out operations to the private sector.

Figure 2 also depicts the relationship between the prison system and other key officials and organisations that influence the operations of the prison system. These include the Minister

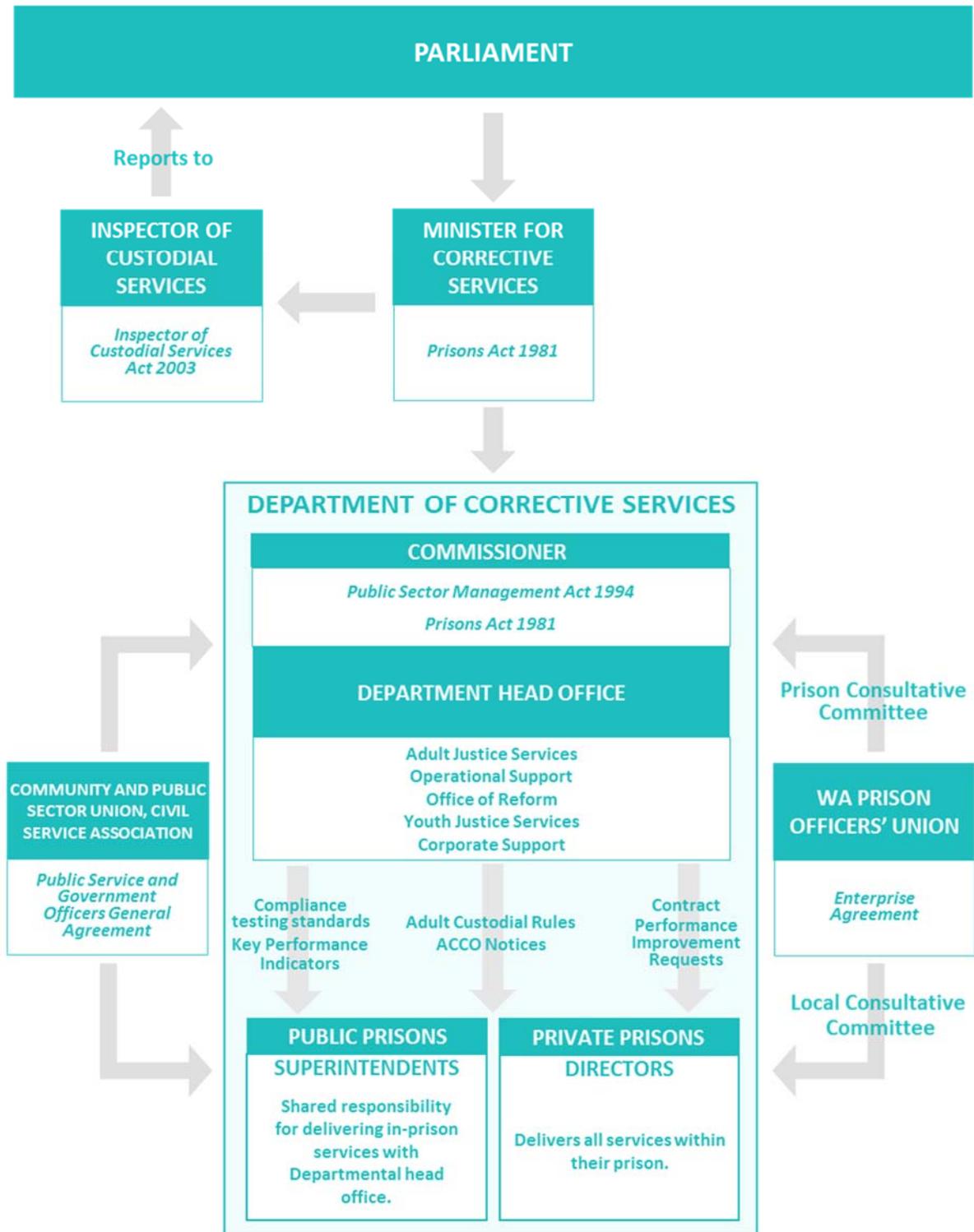
⁴¹ Department of Corrective Services cost models.

for Corrective Services, the Inspector of Custodial Services, and the Western Australian Prison Officers' Union and the CPSU/CSA.

In the remainder of this section, the ERA describes:

- the role of key officials and organisations that influence or are part of the prison system; and
- the legislation or other instruments that allow them to exert influence or authority over the prison system.

Figure 2 Key officials and entities with a role in the Western Australian prison system



3.3.1 Minister for Corrective Services

The Minister for Corrective Services (**the Minister**) has powers and responsibilities relating to the Department and the Inspector of Custodial Services.

The majority of the Minister's powers in relation to Western Australian prisons are set out in the *Prisons Act 1981*. The Act gives the Minister the power to:

- declare any building to be a prison, or alter the boundaries of a prison;
- direct the Commissioner of the Department of Corrective Services to conduct an inquiry and report on any matter, incident or occurrence concerning the security or good order of a prison, or concerning a specific prison or prisoners; and
- have free and unfettered access (along with assistance, prison dogs, and any equipment the Commissioner finds necessary) to a prison, person, vehicle or relevant documents.

In relation to the Inspector of Custodial Services, the Minister may direct the Inspector to:

- inspect a prison, detention centre, court custody facility, or police lock-up; and
- review a custodial service in relation to a prison or detention centre or a custodial service, or an aspect of that service.

However, the Minister does not have absolute power to give direction to the Inspector. The Inspector may refuse to comply with these directions if, in the Inspector's opinion, there are exceptional circumstances for not complying.

3.3.2 Office of the Inspector of Custodial Services

The Office of the Inspector of Custodial Services (**the Inspector**) is an independent statutory authority that focusses on performance standards in prisons and other custodial facilities and the rights of people in detention in Western Australia. The Inspector is given the powers to undertake these activities through the *Inspector of Custodial Services Act 2003*.

The role of the Inspector is one of independent investigation, review and reporting. The Inspector may perform reviews of prisons, detention centres, and custodial services at any time (including scheduled, short-notice, and unannounced inspections) and independently determine the content of inspection reports and reviews.

The Inspector does not have the power to implement, or force the implementation of, any recommendations made as a result of investigations or reviews. However, through reports to Parliament, the Inspector provides transparency and accountability around the activities of prisons in Western Australia.

3.3.3 Department of Corrective Services

3.3.3.1 Commissioner of Corrective Services

The Commissioner⁴² of Corrective Services (**the Commissioner**) holds overall responsibility for exercising the powers of the Department. The powers of the Department in relation to prisons are provided through the *Prisons Act 1981*, *Young Offenders Act 1994* and *Sentence Administration Act 2003*.⁴³ The Commissioner has a range of powers that relate to the management, control, and security of all prisons, and the welfare and safe custody of prisoners.

The Commissioner's powers include, but are not limited to:

⁴² The *Prisons Act 1981* uses the term 'Chief Executive Officer' to describe this position, but the Department of Corrective Services uses the term 'Commissioner'. The ERA has used 'Commissioner' in this Report.

⁴³ Department of Corrective Services, 2014, *Message from the Commissioner*, from <https://www.correctiveservices.wa.gov.au/about-us/commissioner-message.aspx> (accessed 24 September 2014).

- entering into contracts for the provision of prison services for the State;
- making rules for the management, control, and security of prisons, and appointing Superintendents to oversee individual facilities;
- holding inquiries into charges of disciplinary offences against prison officers and imposing penalties for such offences; and
- ordering use of force against a prisoner, or prisoners, in the event that no other reasonable means of control are available at the prison.

Many decision-making powers relating to the day-to-day operation of prisons are delegated to the Superintendents of individual prisons.

The Commissioner, and the Department more broadly, exerts these powers through the use of formal instruments such as *Policy Directives*, *Adult Custodial Rules*, *Assistant Commissioner Custodial Operations Notices*, and *Compliance Testing Standards* for public prisons. The Commissioner can also issue *Performance Improvement Notices* or *Requests* to private prisons, in accordance with contracts for those prisons.⁴⁴

3.3.3.2 Head office of the Department

The primary objective of the Department in delivering corrective services is to ensure safe, secure and decent corrective services that contributes to community safety and reduces offenders' involvement in the justice system.

The responsibilities of the Department are carried out by its five divisions:⁴⁵

- *Adult Justice Services* – The main responsibility of Adult Justice Services is the management of adult prisoners and prison facilities. Adult Justice Services influences sentence management by setting the procedures, guidelines and governance framework for Individual Management Plans (**IMP**).⁴⁶ The division is responsible for the design, delivery and evaluation of prison rehabilitation programs, education and vocational training, all of which form part of an IMP. The division is also involved in ensuring the appropriateness of prison industries (that is, they impart valuable and employable skill-sets), and that prisoners are able to continue training as they move through the system. It is also responsible for managing prisoners serving community sentences, and for the provision of post-release support.
- *Operational Services* – The division supports the operation of the Department through the provision of a range of services. The division manages health services delivered in prisons. The division's Emergency Support Group provide high-security support services to all prisons (such as prison escorts and responding to major incidents). The division also has an investigation function into issues such as staff misconduct and deaths in custody. The intelligence branch of this division supports Departmental decision-making through collection and analysis of raw data.
- *Office of Reform* – Established in 2013, the Office of Reform is responsible for managing the internal reform program of the Department. It directs a program that is designed to better align the Department's structure with its strategy through the provision of high-level and strategic policy advice. The Office has a role in risk management by providing the Department with expertise on risk identification and mitigation. The Office has a role in developing a proactive communication

⁴⁴ These instruments are defined in the glossary provided in Appendix 8.

⁴⁵ Department of Corrective Services, *Department of Corrective Services Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 8.

⁴⁶ An IMP sets out the needs of the prisoner, and plans their sentence.

engagement strategy to inform both staff and the community of the Department's activities, key priorities, Vision, Mission and Values.

- *Corporate Support* – This division supports the Department through the provision of human resources, finance, infrastructure and contracting. The Knowledge and Information Technology Directorate provides expertise on business systems and knowledge management.
- *Youth Justice Services* – Youth Justice Services is responsible for the programs that provide support and rehabilitation to young offenders. This includes youth in detention facilities, under supervised community orders, or in various preventative and diversionary programs. Youth justice is outside the scope of this Inquiry.

Each of these divisions operates under the direction of either a Deputy Commissioner or an Executive Director, all of whom report directly to the Commissioner.

3.3.4 Western Australia Prison Officers' Union

The Western Australia Prison Officers' Union (**WAPOU**) is the trade union representing prison officers of both public and private prisons in Western Australia.

WAPOU has a *de facto* management role in relation to public prisons in Western Australia. WAPOU derives the majority of its power from the State industrial relations agreement that applies to the operation of public prisons – The Department of Corrective Services Prison Officers' Enterprise Agreement 2013 (**Enterprise Agreement**).⁴⁷ The Enterprise Agreement establishes that specific aspects of prison management must be agreed between the parties to the Agreement.⁴⁸

For example, the Enterprise Agreement establishes that WAPOU has a role in agreeing the staffing levels of prisons.⁴⁹ The staffing levels of individual prisons in Western Australia reflect the outcomes of a 2010 baseline staffing review process, conducted by the Department, Superintendents and WAPOU. The outcome of the 2010 review is documented in a Memorandum of Understanding (**MOU**) between the Department and WAPOU.

The *de facto* management role of WAPOU is formalised under Part H of the Enterprise Agreement, which relates to change, consultation and dispute resolution for significant changes to operations affecting prison officers. Section 169 of the Enterprise Agreement provides for the establishment of:

- Local Consultative Committees (**LCC**), which are to be maintained at each prison to facilitate communication and consultation between the Superintendent and local union representatives regarding workplace issues⁵⁰ with a view to resolution at a local level; and

⁴⁷ WAPOU has less influence in the management of prisons operated by the private sector in Western Australia. Federal industrial relations provisions apply to the private prisons. As such, the Enterprise Agreement does not apply to privately operated prisons.

⁴⁸ The parties to the Enterprise Agreement are the Minister for Corrective Services and WAPOU. The Commissioner of Corrective Services is the delegate of the Minister. The Department engages employees on behalf of the Commissioner of Corrective Services and in this capacity, the Department is the employer for the purposes of the Enterprise Agreement.

⁴⁹ The Enterprise Agreement establishes that agreed staffing levels means the number of Officers agreed by the parties as required to fill all permanent positions within a prison.

⁵⁰ Workplace issues include workload management, working arrangements, training and development issues, Occupational Health and Safety; workplace policy and implementation; dispute management monitoring, turnover, accident rate, incidence of workers' compensation and Equal Employment Opportunity.

- A Prisons Consultative Committee (**PCC**), which is a Department wide committee, includes (among others) the Deputy Commissioner Adult Custodial and the WAPOU President. Representatives from a LCC may refer a matter to the PCC if genuine efforts to resolve an issue have been unsuccessful.

Section 173 of the Enterprise Agreement requires the Department to notify prison officers and their Union of changes in ‘production, program, organisation, structure or technology that are likely to have significant effects on officers’. ‘Significant effects’ include major changes in the composition, operation or size of the Department’s workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of officers to other work or locations and restructuring of jobs.

Sections 174 to 177 of the Enterprise Agreement establish dispute resolution procedures between the Department and WAPOU. Under these provisions, a “Status Quo” may be invoked if prison officers object to an operational change that has a significant effect. When a Status Quo is invoked the working practices, procedures or conditions in place must remain until the dispute is resolved. This effectively means that the Superintendents must reach an agreement with WAPOU in order make significant operational changes.⁵¹

3.3.5 Community and Public Sector Union/Civil Service Association

CPSU/CSA is the trade union representing Western Australian public sector workers.

More specifically, the CPSU/CSA represents public servants who work in Western Australian public prisons and the head office of the Department. Public servants perform a variety of roles in the prison system including providing administration and human resource support services, offender management, programs, education, bail services, victim mediation, and the Aboriginal Visitors’ Scheme.

The CPSU/CSA has a role, in conjunction with the Department, in identifying appropriate positions and resource allocations for these public servants.

The CPSU/CSA also has representation in the broader justice system that influences the prisons system such as the Department of the Attorney-General, the WA Police and Legal Aid WA.

3.4 Western Australian prisons

The Western Australian prison system comprises 15 prisons housing approximately 5,500 prisoners.⁵² The Department owns all 15 prisons and operates 13 of them.

The remaining two prisons, Acacia⁵³ and Wandoo, are privately operated by Serco.

Serco must operate both prisons in accordance with its respective contracts. Contracts are designed to ensure the security of prisons, while providing suitable prisoner programs that

⁵¹ A change does not have a significant effect if the Enterprise Agreement makes provision for the alteration.

⁵² This figure is correct as at 31 March 2015. Source: Department of Corrective Services, *Adult Prisoners in Custody Quick Reference Statistics*, Perth, Government of Western Australia, 2015, p. 3.

⁵³ Acacia became the first prison to be privately operated in Western Australia in 2001. Acacia was operated by Australasian Integrated Management Services from 2001 to 2006. Serco won the contract in 2006 through a re-tendering process.

help to meet the Department's goals.⁵⁴ The Department also undertakes onsite monitoring of privately operated prisons to ensure that Serco is meeting its contractual requirements.

Despite this contractual arrangement, the Department retains responsibility for the entire prison system. The Department's responsibility for Acacia and Wandoo does not diminish simply because the private sector is responsible for the day-to-day operation of these prisons.

The prison system is complex, with a range of prisons with different roles to cater to different types of prisoners. The different roles of individual prisons in the system reflect the different needs of prisoners and the way in which a typical prisoner serves their sentence.

Prisoners typically enter the prisons system at an assessment or remand prison, waiting either to be sentenced by the courts or to undergo a post-sentence assessment. In the metropolitan area, this occurs predominately at Hakea Prison (**Hakea**) for males and Bandyup Women's Prison (**Bandyup**) for females. After sentencing, prisoners are assessed at these prisons to determine their security classification and needs. This assessment informs the decision about where a prisoner will serve their sentence. For example, a male prisoner classified as maximum-security is likely to serve his sentence at Casuarina Prison (**Casuarina**).

Prisoners will often move prisons throughout their sentence, reflecting security classification changes or a need to attend certain programs. For example, an offender who entered the system at Casuarina as a maximum-security prisoner may subsequently transfer to a medium-security facility (such as Acacia) and then on to a minimum-security facility (such as Wooroloo Prison Farm (**Wooroloo**)) prior to release. The security rating of a prisoner is the strongest determinant of the prison at which a prisoner will serve a sentence. Other factors influencing this decision include gender, age, the location of family and friends, health needs and program availability⁵⁵ at the prisons.

Many prisons in the Perth metropolitan area house prisoners of just one security classification. The roles of metropolitan prisons are typically more clearly defined than those of regional prisons, reflecting the need for regional prisons to be more flexible (in terms of gender and security-classification) in the services they offer. The need for regional prisons to be more flexible arises from the high cost of moving prisoners, the need to attend court and the aim to keep prisoners close to their community.

Offenders between 10 and 17 years of age are separated from adult prisoners into Youth Detention Centres. The only such facility in Western Australia is the Banksia Hill Detention Centre. Banksia Hill houses male and female juvenile detainees and had an average daily population of 156 in 2014-15.⁵⁶ Banksia Hill has not been considered in this Inquiry as juvenile detention centres are not within the scope of the Terms of Reference.

Table 1 details the prisons operating in Western Australia and the role of each prison in the context of the prison system.

⁵⁴ Department of Corrective Services, *Acacia Prison Contract*, Perth, Government of Western Australia.

⁵⁵ Prisoners may be located at a particular prison because a rehabilitation or education program is only available at that prison.

⁵⁶ Department of Corrective Services, *Department of Corrective Services Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 20.

Table 1 Western Australian prisons

Prison	Operation	Total Capacity ⁵⁷	Prison population ⁵⁸	Role of prison in the prison system
Remand and assessment prisons				
Hakea Prison	Public	1,225	900	Hakea is the main remand and assessment centre for male prisoners in Western Australia. It manages metropolitan prisoners awaiting to appear in court for sentencing or those who have recently been sentenced. Hakea assesses newly sentenced prisoners to identify their needs and security classification. This informs where the prisoner serves his sentence.
Bandyup Women's Prison	Public	394	318	Bandyup is the main facility for female prisoners, housing prisoners of all security classifications. Bandyup holds women on remand, assesses newly sentenced prisoners and manages women who are serving sentences. However, some or all of Bandyup's remand responsibilities will move to a new women's facility at Hakea, which is expected to begin operations in October 2016. ⁵⁹
Maximum and medium-security prisons				
Casuarina Prison	Public	1,032	785	Casuarina is Western Australia's primary maximum-security prison for male prisoners. Casuarina provides specialist state-wide services in housing prisoners who are extremely violent, pose a high risk of escape, require a high level of protection (such as convicted police officers or prison officers), prisoners who are too infirm for mainstream accommodation and those requiring a high level of supervision due to mental health crises.
Acacia Prison	Private	1,433	1,390	Acacia's population is composed almost entirely of sentenced medium-security male prisoners. Following a recent expansion, Acacia became the largest prison in Australia.

⁵⁷ Data provided by the Department of Corrective Services. All figures are as at 31 July 2015. [Bed Capacity Report – 2015-07] A detailed discussion of alternative capacity measures is provided in Section 6.8.1.

⁵⁸ Data provided by the Department of Corrective Services. All figures are as at 30 June 2015. [DAP numbers]

⁵⁹ Department of Corrective Services, *Invitation to Submit an Expression of Interest for the Management and Operation of the Women's Remand and Reintegration Facility*, Perth, Government of Western Australia, p. 22.

Prison	Operation	Total Capacity ⁵⁷	Prison population ⁵⁸	Role of prison in the prison system
Minimum-security prisons				
Wooroloo Prison Farm	Public	365	300	Wooroloo is the largest minimum-security prison in the State. Wooroloo focusses on providing prisoners with skills and traineeships that can assist them into employment on release. Subject to approval, prisoners are able to work under supervision in the community. This can be in paid employment, training at local businesses and in community projects.
Karnet Prison Farm	Public	328	320	Karnet is a minimum-security facility that runs a working farm. The farm provides work to prisoners in producing food including milk, meat and eggs for the State's prisons. The focus of the Karnet is on preparing prisoners for successful re-entry into the community upon release.
Wandoo Reintegration Facility	Private	80	71	Wandoo is a minimum-security facility designed for young men, aged 18 to 28, who are nearing the end of their sentence. It is the first prison in Western Australia that caters to the unique needs of this age group. Wandoo focusses on preparing offenders for release into society.
Boronia Pre-release Centre for Women	Public	95	89	Boronia houses minimum-security female prisoners who are preparing for release. Prisoners undertake a range of rehabilitation activities, including working in the community for businesses and not-for-profit organisations.
Regional prisons				
Albany Regional Prison	Public	510	255	Albany is the main maximum-security prison outside of Perth for male prisoners. It also holds some medium and minimum-security prisoners, and a significant number of prisoners serving long sentences.
Bunbury Regional Prison	Public	347	294	Bunbury houses mainly medium and minimum-security male prisoners, but also has a short-term maximum-security capacity for people remanded in the south west. Bunbury also has a minimum-security self-care unit separate from the main prison.

Prison	Operation	Total Capacity ⁵⁷	Prison population ⁵⁸	Role of prison in the prison system
Greenough Regional Prison	Public	334	291	Greenough predominately houses male and female prisoners of medium and minimum-security. It also houses maximum-security prisoners who are on remand.
Roebourne Regional Prison	Public	174	167	Roebourne houses both male and female prisoners, predominately of medium and minimum-security from the Pilbara and Kimberley. It also holds maximum-security prisoners for short periods.
Eastern Goldfields Regional Prison	Public	123	78	Eastern Goldfields is predominantly a minimum-security facility for male and female prisoners. The facility does have the capacity to house both medium and maximum-security prisoners for a short period to allow for court appearances or visits in the Goldfields. Eastern Goldfields is currently being redeveloped into a modern, 350 bed facility. The redevelopment is due for completion in late 2015. ⁶⁰
West Kimberley Regional Prison	Public	285	202	West Kimberley is a new facility (opened in late 2012) that houses male and female prisoners of medium and minimum-security. West Kimberley is designed and operated in accordance with a philosophy premised upon Aboriginal culture and values and houses mostly Aboriginal prisoners (typically 90 to 95 per cent of prisoners). Capacity and population figures include those of Broome, which is now an annex to this facility.
Broome Regional Prison (Annex)	Public	N/A	N/A	Broome manages male and female prisoners of all security classifications. It is the remand and assessment centre for prisoners in the Kimberley region. As of 2015, it is an annex to West Kimberley Regional Prison and not a prison in its own right. Capacity and population figures are included in those for West Kimberley.
Pardelup Prison Farm	Public	85	82	Pardelup is a prison farm for minimum-security males, focussed on breeding cattle and sheep for consumption throughout the system. Pardelup's primary role is the provision of work, training and re-entry support for prisoners.

⁶⁰ Department of Treasury, *Eastern Goldfields Regional Prison Redevelopment Project: Project Summary*, Perth, Government of Western Australia, 2013.

3.5 Role of the Department and individual prisons in delivering services

A number of services and programs are provided or conducted in prisons for prisoners. This includes health, education and training, rehabilitation programs, prison industries and employment, and post-release support.

Some decision-making responsibilities for these services are centralised within the head office of the Department. An understanding of the relative responsibilities between the Department and Superintendents is necessary for the development of performance benchmarks for prisons.

Table 2 below provides an overview of the responsibilities of the Department and Superintendents in delivering core services within prisons. The table is not applicable to private prisons, who are responsible for delivering all of the services provided in their prisons.

Table 2 Relative responsibilities of head office and Superintendents for prison services

Service area	Role of Head office	Role of Superintendents
Budgets	<p>The Adult Justice Services division is responsible for setting the budget for each prison. This is done in consultation with Superintendents.</p> <p>Adult Justice Services is given a budget appropriation for all of the services that it provides (that is, community corrections and prison services) and from this allocates a budget to each prison.</p> <p>Superintendents make bids for the amount they consider they require to operate their prison for the year. However, the total amount of these bids typically exceeds the appropriation available.</p> <p>The ERA understands that the proportion of the total prisons budget allocated to each prison is based on an estimate of the amount each prison needs and historical shares.</p>	<p>After being allocated a total budget, each line item, and actual expenditure, is the responsibility of the Superintendent.</p> <p>Around 85 per cent of a prison's budget allocation is composed of fixed costs over which Superintendents have no control. For example, the number of full-time employees at the prison is fixed in the short-term.⁶¹</p> <p>The remainder of the budget is variable costs, which are within the control of the prison Superintendent. The variable components of the budget comprise approximately 15 per cent of the total budget. For example, the Superintendent can control their food budget (that is, they can determine the menu that the prisoners receive within guidelines).⁶²</p>
Staffing levels	<p>The staffing levels of individual prisons in Western Australia reflect the outcomes of a 2010 baseline staffing review process, conducted by the Department, Superintendents and WAPOU.</p> <p>Staffing levels may have been varied subsequently to meet changes to prison populations, infrastructure changes or changes to service delivery.</p> <p>The aim of the staffing review was to achieve consistent and equitable staffing decisions across the Western Australian prison system and the centralisation of prison officer staffing decisions.</p> <p>The outcome of the 2010 review is documented in a Memorandum of Understanding between the Department and WAPOU. The MOU was negotiated under the provisions of the Enterprise Agreement.</p> <p>The MOU established the agreed state wide prison officer staffing levels required for the available accommodation units, service delivery requirements and appropriate supervision of each prison at the baseline date of 15 December 2010.</p>	<p>Under the <i>Prisons Act 1981</i>, the Superintendent has the overarching responsibility for the good governance, good order and security of the prison.</p> <p>Superintendents are responsible for determining the best placement of available staff and the appropriate changes to be made to routine prison functions in the event of daily staffing shortfalls within a prison because full staffing levels are not available.</p> <p>The Superintendent is required to consult the local branch of WAPOU about modifications to staff placement and routine prison functions in the event of staffing shortfalls.</p> <p>Superintendents must prepare a business case for the Department to consider if they require additional staff or wish to change the composition of their staffing (for example, to increase the number of public servants). However, under the Enterprise Agreement and the MOU, any changes to the workforce that have a significant effect on prison officers would need to be negotiated with WAPOU representatives.</p>

⁶¹ In the longer-term, Superintendents can prepare a business case for consideration by the Department to adjust the number and type of employees in their prison.

⁶² Delivering some variable costs, including food, to budget may not be possible in the event that the prison population increases markedly. That is, if a prison is budgeted to house 300 prisoners and actually houses 400 prisoners it will not be possible to stay on budget for many variable costs, such as food.

Service area	Role of Head office	Role of Superintendents
	<p>The staffing agreement for each prison reflects the staffing levels for specific services and functions and the population of each prison using a series of state wide benchmarks as a guide.</p> <p>The parties to the MOU agreed that prison officer staffing levels are contingent upon a number of variable factors. These factors include: prison populations; changes in design or delivery of services; changes in prison demand for services; changes to infrastructure; assessed risk of the prisoner demographic; and changing financial circumstances of the Department.</p> <p>The MOU indicates that all staffing levels will be reviewed in 2013. To date Albany, Greenough Regional Prison and Hakea Prison do not have replacement agreements.</p> <p>After 2013, staffing levels may be reviewed in all or any prison if the parties to the MOU agree that an appropriate trigger point has been reached.</p> <p>The MOU establishes that the Department will engage in constructive and genuine consultation with WAPOU in the development of an appropriate staffing review process.</p> <p>The dispute resolution process in the Enterprise Agreement may be used by either party if an agreement on variations to staffing levels cannot be reached.</p>	<p>The ERA observes that there are some limitations on the ability of Superintendents to influence decisions that relate to individual staff in their prison.</p> <p>In particular, the outcomes of a prison officer's Performance Appraisal and Development System discussion may not be taken into account in promotion decisions.</p> <p>Superintendents may only refuse a prison officer being transferred to their prison if a documented sub-standard performance issue remains unresolved in accordance with Clause 136.10 of the Enterprise Agreement.</p>
Health services	<p>Health services (prison based medical centres) operate as a separate unit within a prison, controlled by head office. Health services reports to head office through the Operational Support division. Health services' budget is separate from that of the prison, and Superintendents do not have any direct control of health services staff.</p>	<p>Superintendents work in collaboration with health services in daily operations. Superintendents ensure prisoners are able to attend health appointments, are treated in accordance with medical advice and provide guards and supervision when required.</p> <p>If a Superintendent is unsatisfied with the health services in their prison they would be expected to first try to resolve the issue locally with their health services and then, if required with head office.</p>
Education and Vocational Training	<p>Education and vocational training operate as a separate unit within a prison, controlled by head office and reports through to Adult Justice Services in the Department.</p>	<p>Superintendents work in collaboration with education and vocational training units to ensure prisoner attendance and provides guards and supervision.</p>
Rehabilitation programs	<p>Rehabilitation programs are designed and delivered by head office, again through Adult Justice Services.</p> <p>The Department is also responsible for the evaluation of program effectiveness.</p>	<p>The prison's role in rehabilitation programs is to work in collaboration to ensure prisoner attendance and provide guards and supervision.</p> <p>Additionally, prison Superintendents consult with head office in planning to ensure the rehabilitation needs of their population are met.</p>

Service area	Role of Head office	Role of Superintendents
Industries and employment	<p>Head office has less involvement in the management of industries and employment, than it does for other prison services.</p> <p>Adult Justice Services ensures that the industries run in prisons are appropriate and provide potential for career opportunities on release.</p> <p>Additionally, Adult Justice Services ensures that a prisoner is able to continue training as they progress through the system. For example, a prisoner can start a carpentry apprenticeship at Casuarina (maximum-security), continue the apprenticeship at Acacia (medium) and finish at Wooroloo (minimum).</p>	<p>Superintendents are wholly responsible for the industries and prisoner employment programs that run in their prisons, given that the industries are approved by head office. Industries and employment come out of the prison's budget.</p> <p>If a Superintendent wants to commence another industry or area of employment, they must present a business case to the Department for assessment and approval.</p>
Sentence management and Individual Management Plans⁶³	<p>Adult Justice Services, is responsible for setting the procedures, guidelines and governance framework for sentence management.</p>	<p>Superintendents are collectively responsible for the development of IMPs for prisoners and progressing a prisoner through their sentence. Components of a prisoner's IMP will be completed at different prisons as they progress through the system. No one prison can be responsible for the whole of a prisoner's IMP. An IMP is the responsibility of all prisons that house the prisoner through their sentence.</p>
Post-release support	<p>Head office is responsible for engaging organisations within the community to provide support to prisoners on release. This is often achieved through contracts with the not-for-profit sector.</p> <p>Head office is responsible for the management of those contracts and the assessment of their effectiveness.</p>	<p>Prisons have Transitional Managers on their staff that manage a prisoner's transition into the community. Transitional managers are under the direction of prison Superintendents.</p> <p>Transitional managers ensure all required paperwork is completed (applications for Centrelink, housing etc.) and facilitates prisoner contact with community service providers, such as Outcare.</p> <p>Prisons are not able to require a prisoner to engage with service providers.</p>

Source: Discussions with the Department of Corrective Services.

⁶³ Individual Management Plans are developed when a prisoner begins their sentence and set out the needs of the prisoner and the programs that they will complete throughout their sentence.

3.6 Cost of operating the prison system

The Department incurs a variety of costs in operating the Western Australian prison system, including day-to-day operating costs, capital costs in the construction and refurbishment of facilities, and costs paid to third-party contractors.

This section:

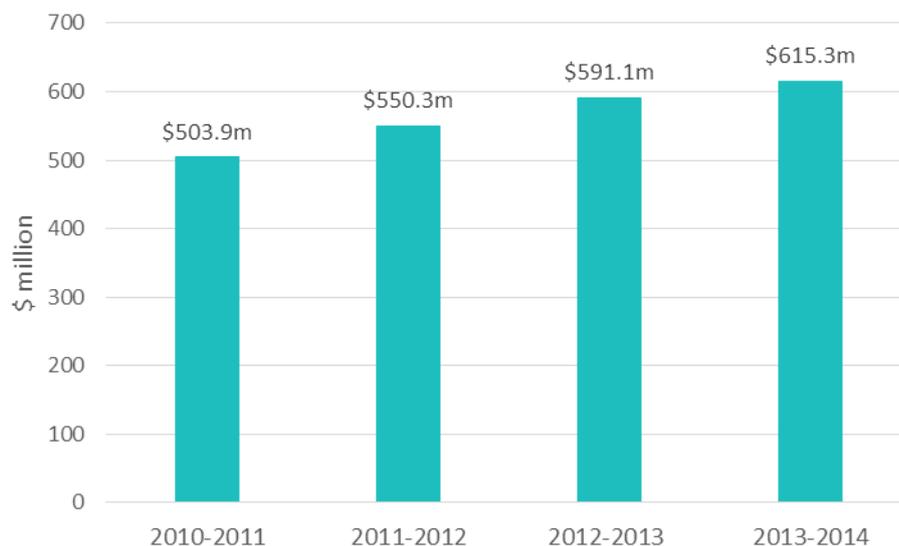
- provides a brief overview of the Department's total costs in recent years;
- outlines the contribution of each prison to the total costs incurred by the prison system;
- discusses the complexities of comparing costs incurred by public and private prisons; and
- provides the results of the ERA's cost per prisoner per day modelling, along with an explanation of key drivers of cost per prisoner per day, and the reasonableness of interstate comparisons.

Appendix 3 provides further detail, outlining the methodology used by the Department to calculate cost per prisoner per day, an explanation of the way in which overhead costs are attributed by the Department to individual prisons, and a range of supporting data tables.

3.6.1 Overview of the Department's costs

In 2013-14, the total cost to the State Government of keeping prisoners in custody was approximately \$615 million.⁶⁴ This was a real increase of 4 per cent on the 2012-13 figure. Figure 3 shows the progression of this cost from 2010-11 to the 2013-14.

Figure 3 Estimated cost of keeping prisoners in custody (\$, real 2014-15)



Source: Cost models provided by the Department of Corrective Services.

⁶⁴ Based on cost per prisoner per day data and average daily population figures provided by the Department of Corrective Services. In its Annual Report, the Department of Corrective Services states that \$756 million was spent on Adult Criminal Justice Services in 2013-14. This figure includes activities that occur outside of prisons, such as home detention and community supervision.

The Department sought additional funding from Government in 2013-14, citing significant cost pressures caused by increased prisoner numbers and increased insurance costs. The Government provided the Department with supplementary funding of \$3.5 million to meet the cost of increased prisoner numbers and \$13.3 million to meet increased insurance costs.⁶⁵

The Department made progress in achieving the Government's fiscal savings targets, achieving \$28.4 million in savings by reviewing costs and establishing spending restrictions.⁶⁶

3.6.2 *Attributing costs to individual prisons*

In this section, the ERA provides a detailed discussion of the Department's costs for two reasons. Firstly, this information provides context for the recommendations made in this Final Report.⁶⁷ Secondly, it presents data and analysis that have not been published elsewhere, with the aim that these will facilitate a more informed public debate on the prison system in Western Australia.

A number of stakeholders have commented that it is important to improve transparency about the cost of prison services. In particular, stakeholders have indicated that they do not understand how the Department allocates costs to specific prisons, so have difficulty in interpreting metrics such as cost per prisoner per day.

A lack of transparency about prison costs and their allocation to individual prisons can lead to misinterpretation and misuse of cost metrics. This is a particular risk where costs are used as a measure of prison performance, since cost information does not, in isolation, provide insight into whether the prison system (or an individual prison) is performing well.⁶⁸ Further, it is important to note that cost per prisoner per day includes many expenses that are controlled by the Department, rather than Superintendents. These include depreciation expenses, transport costs, and all overheads. Additionally, Superintendents have limited control over employment costs, as these are dictated to a large extent by the Enterprise Agreement entered into by the Department.

However, in combination with performance benchmarks (for instance, measures of health, safety, and rehabilitation outcomes), cost information on a per prison basis can show whether various operational decisions and capital investments have provided good value for Western Australians. This information both assists the Department in making effective, evidence-based decisions in the future, and when published, it allows other parties to better evaluate how the prison system works, and why it costs what it does.⁶⁹

⁶⁵ Department of Corrective Services, *Department of Corrective Services Annual Report 2013–14*, Perth, Government of Western Australia, 2014, p. 18.

⁶⁶ Department of Corrective Services, *Department of Corrective Services Annual Report 2013–14*, Perth, Government of Western Australia, 2014, p. 18.

⁶⁷ Particularly the discussion of management information and benchmarks in Chapter 6, transparency of Departmental data in Chapter 7, and the delivery of public and private prison services in Chapter 8.

⁶⁸ A substantial, but well-targeted investment that raises current costs, can be efficient in the long-term, reducing recidivism, and consequently avoiding the future costs for the Department, courts, police, and the wider community. Further, two prisons performing equally effectively will not necessarily have equal costs, as explained later in this section.

⁶⁹ It is important to note that many of these expenses fall outside the control of Superintendents at individual facilities, who have little to no input into the policy decisions that influence where and when new facilities are constructed, nor into the number and type of prisoners to be accommodated.

3.6.2.1 How the Department's total costs are distributed by prison and by category

Over 40 per cent of the Department's costs are attributable to Western Australia's three large metropolitan prisons (Acacia, Hakea, and Casuarina) as shown in Table 3. These prisons are responsible for housing around 50 per cent of prisoners in the system.

Table 3 Average relative contribution of each prison to total DCS costs and total population (2010-11 to 2013-14)

Prison	Share of Total Cost	Share of Total Population
Hakea	16.1%	17.4%
Casuarina	14.8%	13.0%
Acacia	11.9%	20.7%
Bunbury	6.8%	6.9%
Albany	6.7%	6.4%
Greenough	6.4%	6.0%
Bandyup	6.3%	5.3%
Karnet	6.2%	5.8%
Woorloo	5.8%	7.2%
Roebourne	5.7%	3.3%
West Kimberley	5.2%	1.8%
Broome	3.9%	1.6%
Eastern Goldfields	2.5%	2.0%
Wandoo	2.0%	0.7%
Boronia	1.7%	1.6%
Pardelup	1.6%	1.6%

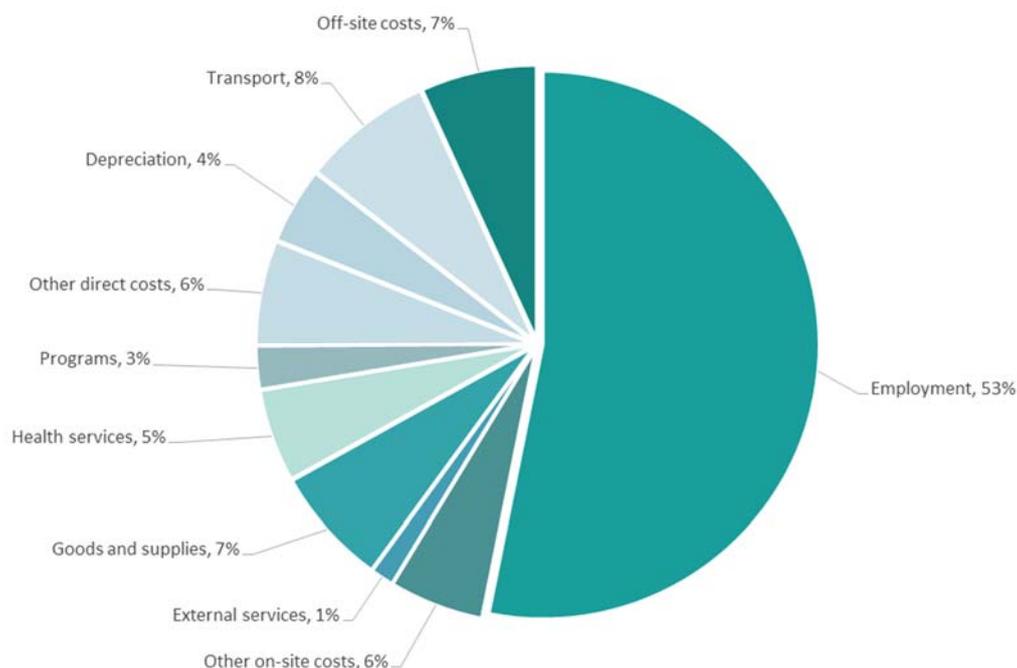
Source: Cost models provided by the Department of Corrective Services.⁷⁰

The major components of the cost of operating Western Australia's public prisons are shown in Figure 4 and further detailed in Table 4.

Some of these costs – for example, the costs of engaging prison officers and other on-site staff – are directly attributable to individual prisons. Portions of other costs, such as administration, insurance, and the cost of IT systems, are allocated by the Department to each prison. The way in which these costs are allocated to individual prisons is detailed in Appendix 3, along with information on possible improvements to allocation methodologies that have been raised by Department staff.

⁷⁰ Figures may not sum to 100 per cent due to rounding.

Figure 4 Average distribution of costs in Western Australian public prisons (average across 2010-11 to 2013-14 financial years)



Source: Data sourced from the Department of Corrective Services.

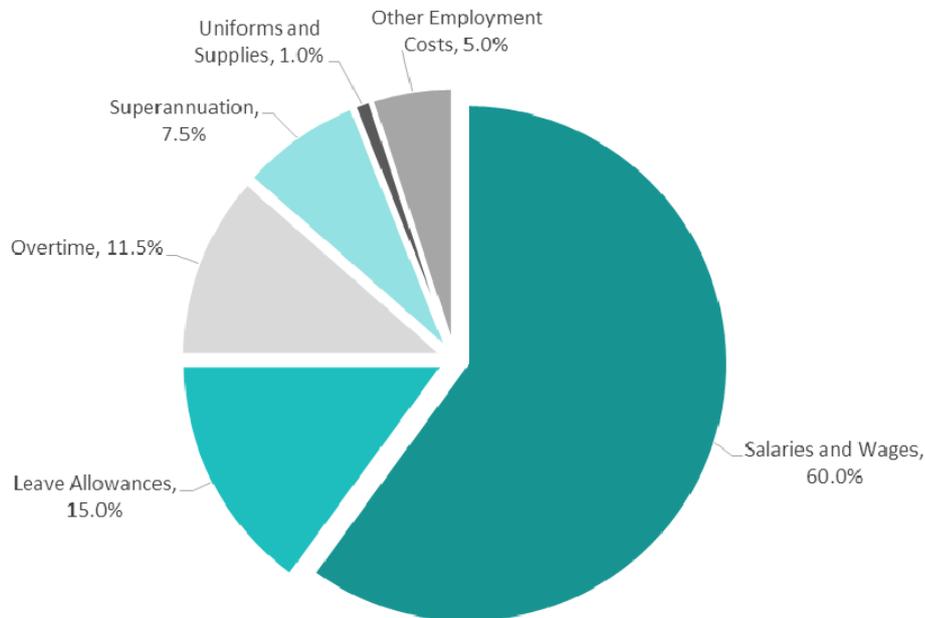
Table 4 Description of key cost components

Cost Category	Description
Depreciation	Accounting depreciation of buildings and other assets over their useful lives.
Employment	Costs incurred in employing prison officers and other departmental staff, including wages, salaries, allowances, overtime, and superannuation.
External services	Costs of hiring third parties to perform a variety of work, including operation and maintenance of prisons, and other services provided to the Department.
Goods and supplies	General supplies used in the day-to-day operation of the Department; these may include food, office supplies, and other products required in the operation of prisons and head office.
Health services	The costs involved in providing medical, psychological, and psychiatric care to inmates.
Off-site costs	A range of smaller overhead costs including those relating to prison industries, welfare providers, off-site maintenance, Fringe Benefits tax, and the Total Offender Management System. (A detailed breakdown is provided in Appendix 3.)
Other direct costs	A range of smaller costs incurred directly on prison sites including those relating to maintenance, and the Aboriginal Visitor System.
Other on-site costs	Other costs that relate to the activities conducted on prison sites, but cannot be directly traced to a single prison. (For example, the costs of insurance for prisons, and costs for IT services used in prisons.)
Programs	Costs incurred in the delivery of programs to prisoners.
Transport	Costs incurred in transporting prisoners between courts, medical facilities, prison facilities, and other locations.

Source: Cost models provided by the Department of Corrective Services, and consultation with the Department.

The largest cost component is employment, representing over half of total costs, a figure that is reasonably consistent across individual prisons in the system.⁷¹ While the breakdown of employment-related costs will vary from prison to prison, data provided by the Department indicates that salaries, wages, and leave allowances account for around 75 per cent of the total, with overtime around 11 to 12 per cent, and the remainder comprised of superannuation, pensions, and other staff costs, as shown in Figure 5.⁷²

Figure 5 Estimated composition of employment-related costs



Source: ERA calculation based on data provided by the Department of Corrective Services.

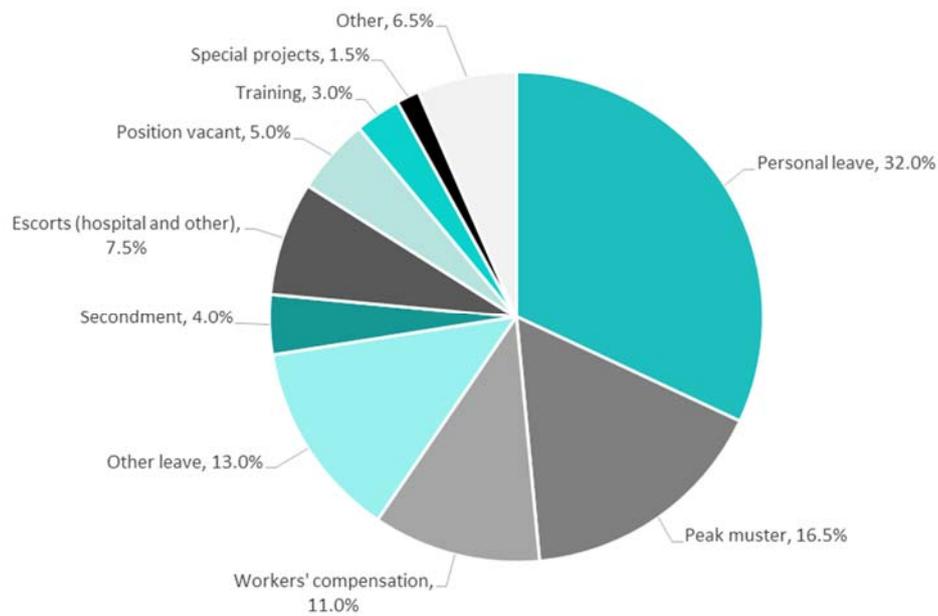
Several of the Department's other costs, such as depreciation and insurance, are essentially fixed costs that will not change proportionately if more or fewer prisoners are accommodated, except when new facilities or units are opened. The cost of external contracted services may also be fixed in the short to medium-term, where the Department has committed to a contract for a given period.

Other costs, such as goods and services used on prison sites, transport costs, and the cost of delivering health services and programs, will generally vary more directly in relation to fluctuations in prisoner numbers. Employment costs, particularly overtime, will also vary, but also have a permanent, fixed component in the short to medium-term due to the retention of permanent, salaried staff.

The ERA has also provided further information about the composition of the 11.5 per cent of employment-related costs attributable to overtime. A breakdown of reasons for overtime is provided in Figure 6. A more detailed table is also available in Section 4.4.5.

⁷¹ This figure includes both direct and allocated overhead wages, salaries, allowances, superannuation, and other staff costs.

⁷² Note that this is an estimated figure based on a range of spreadsheets provided by the Department to the ERA, and does not provide an exact breakdown of actual costs for any given period.

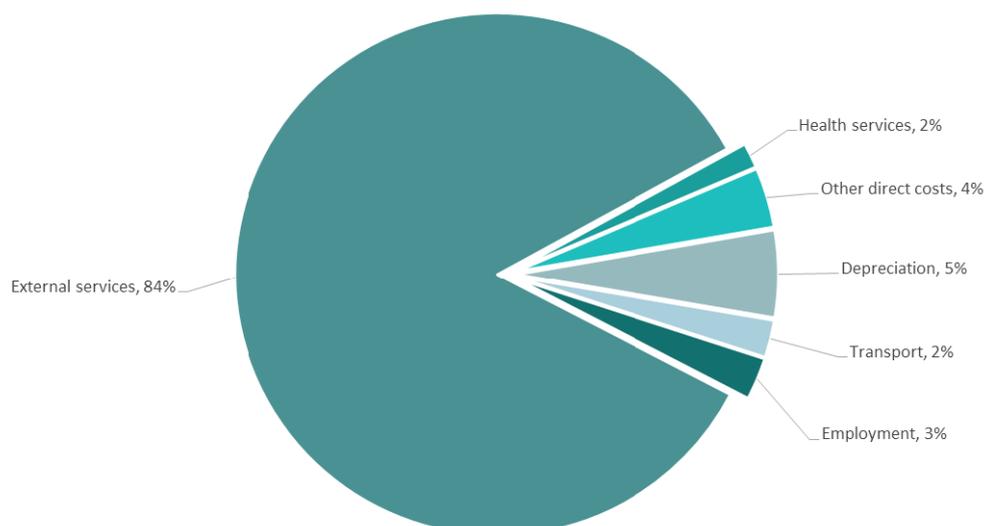
Figure 6 Reasons for overtime (2013-14)

Source: Data provided by the Department of Corrective Services.

3.6.3 Comparing public and private prisons

In private prisons, the Department's costs (such as employment, goods, and supplies) are substituted by costs paid by the Department to the private operator, which are shown in Figure 7 as external services.

A breakdown of the use of contract revenue by independent operators is not publicly available, due to it being commercial-in-confidence. This applies to both privately operated prisons in Western Australia, and more generally across the world, with cost data being limited to the high level breakdowns provided in Annual Reports.

Figure 7 Average distribution of costs in Western Australian private prisons (average across 2010-11 to 2013-14 financial years)

Source: Cost models provided by the Department of Corrective Services.

In Western Australia, the Department also allocates a percentage of overhead costs to the State's private prisons when calculating a cost per prisoner per day figure. To accurately assess the cost of operating each of the State's prisons, it is important that these overhead costs are appropriately allocated to the prisons in a manner consistent with the consumption of resources by each prison.

As detailed in Appendix 3, the cost of health services, centre medical records, contracted services, and the Total Offender Management System are apportioned to each prison, including private prisons, on the basis of the daily average population of each facility. In 2013-14, the Department improved its cost allocation methodology to apportion health services and medical records costs to private as well as public prisons. (In previous years, these costs had only been allocated across the State's public prisons.)⁷³ Prisoner transport and depreciation costs are also allocated to private as well as public prisons, on the basis of prisoner movements and accounting depreciation respectively.

In assessing the Department's approach to cost allocation, the ERA has been mindful that cost allocation should be based on principles of causality, objectivity, consistency, and transparency.⁷⁴ Most of the Department's cost allocation methods appear to be reasonably consistent with the first three of these principles, although there is scope for improvement.

For example, the use of daily average prisoner population to allocate costs that relate to the intake of new arrivals is not consistent with the principle of causality. This is because these up-front costs (for instance reception and initial health assessment costs) are largely driven by the number of prisoners who arrive at a facility within the year, rather than the average population across the year. As a result, the Department's cost figures tend to understate costs for prisons with a high remand population, as the daily average population of each facility does not differentiate between prisons with high turnover of short-stay prisoners (such as Hakea), and those with a relatively stable population (such as Acacia).

Department staff have noted that allocation of costs to private prisons might also be improved by adopting cost drivers that have a stronger causal relationship with the costs that are incurred. They have proposed improvements that include attributing IT costs to private prisons on the basis of number of logins (because private prisons also use these systems, and number of logins more accurately reflects the use of resources by each facility), and allocating the cost of prisoner assessments at Hakea (that is, assessments to determine placement and program participation) to Acacia and Wandoo, for prisoners transferred to those facilities, since Hakea is effectively processing these prisoners on behalf of the private prisons.⁷⁵

If the Department elects to change an allocation methodology, it should also recalculate and republish historical figures using the improved methodology, to ensure time-series data remains comparable from year to year.

Finally, the ERA notes that there is presently little to no transparency about the way most costs are allocated by the Department to specific prisons. The ERA discusses the issue of transparency of Departmental data in Chapter 7 and makes recommendations for

⁷³ When modelling cost per prisoner per day, the ERA has adjusted cost allocations in prior years to use the same methodology.

⁷⁴ These principles are generally found in guidance on the preparation of regulated accounts. (For example, *The role of regulatory accounts in regulated industries*, London, Government of the United Kingdom, 2001.) However, they provide a good foundation of cost allocation for any accounting or analytical purpose.

⁷⁵ Additionally, Department staff have suggested to the ERA that capital costs could be stated as a separate item, rather than allocated on the basis of accounting depreciation. This may assist users in better understanding cost data, and clarify why costs at older facilities with fully depreciated assets are lower than costs at newer facilities.

improvement. The ERA considers that these recommendations should apply to the Department's cost allocation assumptions and data.

3.6.4 *Cost per prisoner per day*

In addition to total cost, cost per prisoner per day is commonly used to assess the cost of operating prisons. This metric assists the Department in assessing different drivers affecting the costs of prisons, identifying opportunities for improvement, and explaining cost anomalies. It allows for a broader understanding of the costs of the prison system as a whole, rather than a measure of the relative performance of individual prisons, since costs are not only driven by prison operations, but also by historical investment, Government policy, and Departmental decisions.

Following the release of the Draft Report, the ERA has undertaken its own cost modelling to better understand the way in which cost per prisoner per day is calculated by the Department.

This section provides detail on the cost per prisoner per day for each of Western Australia's prisons between 2010-11 and 2013-14, and discusses the main drivers of these costs.

3.6.4.1 *Interpreting and using the cost per prisoner per day measure*

The ERA considers that, while cost per prisoner per day can be a useful measure, it should be interpreted with caution. Due to the small number of prisons in Western Australia, and the significant differences between them, it is often not meaningful to compare them to each other. (For example, there are no other large, medium-security metropolitan prisons that can be compared to Acacia.) As a result, there is no one 'right' cost per prisoner per day that could be expected to be achieved by all prisons.

Cost per prisoner per day simply describes the Department's use of funds. It provides no information on the appropriateness of the use of those funds. For example, a prison with a very low cost per prisoner per day but very poor rehabilitation outcomes may be inefficient, but a prison with a high cost per prisoner and very low re-offending rates may be using those funds well to deliver an efficient outcome for the State.

Additionally, as shown in Table 3 above, prisons with a high cost per prisoner per day also tend to accommodate a relatively small number of prisoners – context of this nature is sometimes disregarded when costs are only expressed in per prisoner per day terms. This means that while facilities like Wandoo and Eastern Goldfields may be significantly more expensive to run on a cost per prisoner per day basis, they only account for 2 per cent and 3 per cent of the Department's total cost respectively, in dollar terms.

The ERA also notes that the Wandoo and West Kimberley prisons were opened during the period covered in this analysis of costs. New facilities will tend to have a somewhat higher cost per prisoner per day than older facilities, due to some of the start-up costs incurred in early years, and the fact that they generally hold fewer prisoners than their intended capacity (since prisoner numbers are usually ramped up to capacity over several years).⁷⁶

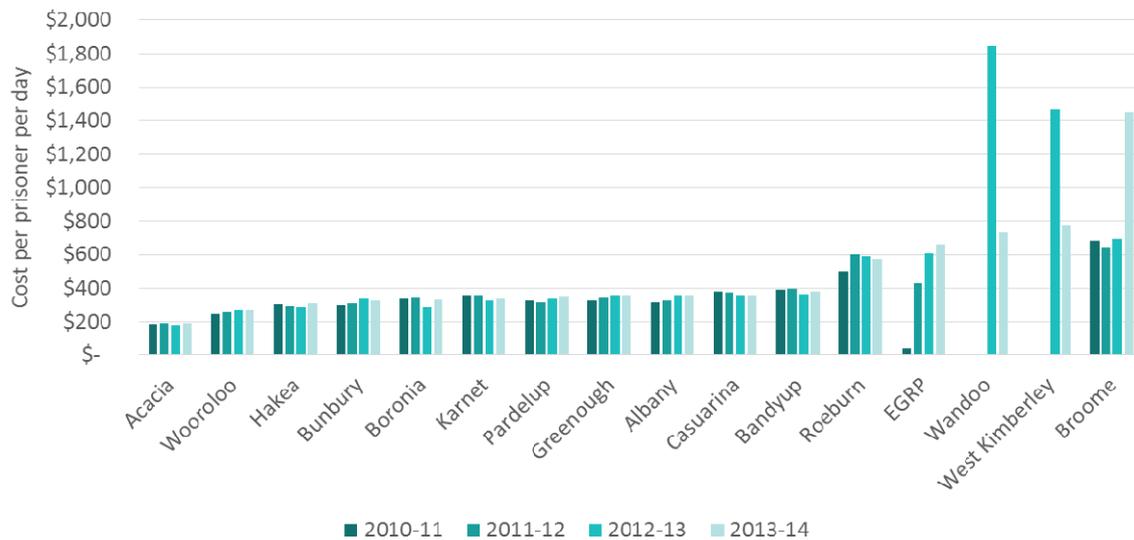
3.6.4.2 *ERA assessment of cost per prisoner per day*

The ERA has modelled the gross cost per prisoner per day (that is, excluding revenue) for each of the State's prisons over the 2010-11 to 2013-14 period, giving the results shown in

⁷⁶ Additionally, the Department's operation and use of Broome has changed over the same period. This is reflected in Figure 8, which shows a sudden change in costs for the facility in 2013-14.

the Figure 8, and further detailed in Table 5 and Table 6. This cost has been calculated using the same methodology used by the Department to report to Parliament, as described in detail in Appendix 3.⁷⁷ Appendix 3 also provides more detailed tables that show a breakdown of key inputs and costs.

Figure 8 Cost per prisoner per day (2010-11 to 2013-14) (\$, real 2014-15)



Source: Cost models provided by the Department of Corrective Services.

⁷⁷ Any difference in figures from those reported annually by the Department is attributable to (1) the ERA's correction of minor errors in the Department's cost models, and (2) the provision of figures in this report in real, 2014-15 dollars, to allow for year to year to comparison.

Table 5 Average cost per prisoner per day, by line item (2010-11 to 2013-14) (\$, real 2014-15)

	Average Cost	Acacia	Wandoo	Albany	Bandyup	Boronia	Broome	Bunbury	Casuarina	Eastern Goldfields	Greenough	Hakea	Karnet	Pardelup	Roebourne	Wooroloo	West Kimberley
Employment	\$147	\$2	\$56	\$190	\$194	\$177	\$452	\$163	\$185	\$219	\$178	\$148	\$160	\$172	\$333	\$141	\$713
Other on-site costs	\$16	-	-	\$22	\$23	\$17	\$31	\$19	\$20	\$24	\$21	\$17	\$19	\$19	\$21	\$16	\$68
External services ⁷⁸	\$38	\$149	\$1,139	\$5	\$8	\$8	\$5	\$5	\$4	\$4	\$4	\$4	\$7	\$4	\$5	\$4	\$7
Goods and supplies	\$20	-	-	\$21	\$22	\$27	\$19	\$26	\$28	\$14	\$17	\$20	\$67	\$29	\$19	\$23	\$40
Health services	\$17	\$5	\$5	\$17	\$35	\$23	\$43	\$14	\$23	\$18	\$17	\$18	\$14	\$18	\$28	\$14	\$46
Programs	\$8	-	-	\$9	\$15	\$6	\$12	\$8	\$11	\$10	\$8	\$11	\$9	\$7	\$11	\$7	\$20
Other direct costs	\$20	\$13	\$4	\$20	\$21	\$26	\$39	\$19	\$24	\$20	\$20	\$19	\$28	\$27	\$31	\$19	\$49
Depreciation	\$13	\$8	\$87	\$12	\$14	\$11	\$27	\$16	\$17	\$12	\$12	\$11	\$14	\$23	\$19	\$11	\$120
Transport	\$22	\$9	\$0	\$18	\$25	\$6	\$210	\$23	\$24	\$88	\$39	\$21	\$2	\$4	\$72	\$1	\$13
Off-site costs	\$21	-	-	\$25	\$25	\$23	\$29	\$24	\$32	\$23	\$25	\$28	\$25	\$25	\$24	\$23	\$46
Total CPPPD	\$322	\$185	\$1,292	\$340	\$382	\$323	\$868	\$317	\$367	\$433	\$342	\$298	\$345	\$330	\$564	\$260	\$1,120

Source: Cost models provided by the Department of Corrective Services.

Table 6 Composition of cost per prisoner per day, by line item (2010-11 to 2013-14) (% based on \$, real 2014-15)

	All public prisons	Acacia	Wandoo	Albany	Bandyup	Boronia	Broome	Bunbury	Casuarina	Eastern Goldfields	Greenough	Hakea	Karnet	Pardelup	Roebourne	Wooroloo	West Kimberley
Employment	46%	1%	4%	56%	51%	55%	52%	52%	50%	51%	52%	50%	46%	52%	59%	54%	64%
Other on-site costs	5%	0%	0%	7%	6%	5%	4%	6%	6%	5%	6%	6%	5%	6%	4%	6%	6%
External services ⁷⁹	12%	81%	88%	1%	2%	2%	1%	1%	1%	1%	1%	1%	2%	1%	1%	2%	1%
Goods and supplies	6%	0%	0%	6%	6%	8%	2%	8%	8%	3%	5%	7%	19%	9%	3%	9%	4%
Health services	5%	3%	0%	5%	9%	7%	5%	4%	6%	4%	5%	6%	4%	6%	5%	5%	4%
Programs	2%	0%	0%	3%	4%	2%	1%	3%	3%	2%	2%	4%	2%	2%	2%	3%	2%
Other direct costs	6%	7%	0%	6%	6%	8%	5%	6%	6%	5%	6%	6%	8%	8%	6%	7%	4%
Depreciation	4%	4%	7%	4%	4%	3%	3%	5%	5%	3%	4%	4%	4%	7%	3%	4%	11%
Transport	7%	5%	0%	5%	7%	2%	24%	7%	6%	20%	12%	7%	1%	1%	13%	1%	1%
Off-site costs	7%	0%	0%	7%	7%	7%	3%	8%	9%	5%	7%	10%	7%	8%	4%	9%	4%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Cost models provided by the Department of Corrective Services.

⁷⁸ External services represents the cost of engaging third parties to provide services. In the case of Acacia and Wandoo, the majority of this cost represents the fees paid to Serco to operate each prison. Explanations of other cost items are provided in Table 4.

⁷⁹ External services represents the cost of engaging third parties to provide services. In the case of Acacia and Wandoo, the majority of this cost represents the fees paid to Serco to operate each prison. Explanations of other cost items are provided in Table 4.

The Department's overall cost per prisoner per day over the period was \$322. However, as shown in Figure 8, the costs for Wandoo, West Kimberley, and Broome differ substantially, and fluctuate during the period.

Hakea's cost would be expected to be high, due to the additional expenses incurred in processing a high proportion of the State's remand prisoners. As discussed above, remand prisoners are typically more expensive to accommodate on a cost per prisoner per day basis than sentenced prisoners, due to reception and initial assessment costs.⁸⁰ However, it is actually around \$300 per prisoner per day – similar to many other metropolitan prisons. This is, in part, because the cost of processing remand prisoners at Hakea is not fully reflected in the Department's cost allocation methodology (as discussed in Section 3.6.3 above). Additionally, Hakea's costs are lowered by the fact that it is an older facility with relatively low accounting depreciation expenses, and also because it does not perform some functions delivered in other prisons. For example, it delivers fewer education, training, and employment services than most other prisons, due to its majority short-stay population.

The high cost per prisoner per day for the Wandoo facility relates largely to the fact that the prison has historically operated well below its total capacity of 77 prisoners, with a daily average population of 17 in 2012-13, and 48 in 2013-14.⁸¹ The ERA estimates that, if Wandoo had been operating close to full capacity in those years, its cost per prisoner per day would have been considerably lower, due to the fixed costs incurred in operating the facility. For example, depreciation costs were around \$800,000 in each year.⁸² Further, the Department has committed to pay Serco a minimum amount under the Wandoo contract regardless of the number of prisoners accommodated, although payments under the contract are tiered depending on projected population. The fixed contractual cost of operating the facility was \$8.8 million in 2012-13, with a daily average prison population of only 17 (that is, \$1,400 per prisoner per day), rising to \$10.8 million for a population of 48 in 2013-14 (around \$600 per prisoner per day).⁸³

The low cost per prisoner per day for Acacia is likely driven by a mix of factors, including economies of scale as a result of the relatively large population, the fact the facility only houses medium-security, non-remand prisoners, and Acacia's metropolitan location. There are no public prisons in Western Australia that meet all three of these conditions, and so it is not possible to conclude that a similar public prison would be either more or less expensive on a cost per prisoner basis.

Both the high cost levels and fluctuations in the cost per prisoner per day at the West Kimberley and Broome facilities are driven by the additional expense of operating low-population, remote prisons (as discussed further in the section below), and by changes in the function of the Broome prison. Due to the lack of a court near the new West Kimberley facility, prisoners may be tried in Broome and, if convicted, will then be transferred to West Kimberley. As the Department allocates prisoner transport costs to the prison of departure, this has resulted in a very large increase in cost per prisoner at Broome, as prisoners are tried in the Broome courthouse, and subsequently sent to the remote West Kimberley

⁸⁰ This is because these prisoners may only stay in the prison for a short time, so their cost per prisoner per day is higher, since their reception costs are only spread over a small number of days. This is discussed further in Section 3.6.4.3.

⁸¹ Cost models provided by the Department of Corrective Services. The ERA notes that prisoner allocation is controlled by the public sector, and is not influenced by the private prison operator.

⁸² Cost models provided by the Department of Corrective Services.

⁸³ Western Australia, Legislative Assembly, *Debates*, 22 August 2013, p648b-649a; Department of Corrective Services, *Annual Report 2012-13: Wandoo Reintegration Facility (Young Adults Facility Contract)*, Perth, Government of Western Australia, 2013.

prison. This is demonstrated in Figure 8, where the cost per prisoner per day shows a sudden increase in 2013-14, being the first full year of operation of West Kimberley.

3.6.4.3 Major drivers of cost per prisoner per day

Cost per prisoner per day is driven by a range of factors, including the number of prisoners accommodated, the number of staff employed, prisoner demographics and security classifications, the location of prison facilities, and the transport requirements for each prison. There are also significant relationships between a number of these drivers – for example, the number of staff is correlated with the number of prisoners⁸⁴ and their security classifications, and transport costs are influenced by prison location.⁸⁵

Number of prisoners

In very broad terms, prisons accommodating a higher number of inmates tend to have a lower cost per prisoner per day than similar prisons with a lower population, in part due to economies of scale – that is, the general principle that it is cheaper per unit to deliver a service to many people than a small number of people, and due to the Department's fixed costs. For example, the amount of depreciation expenditure for a building allocated to each prisoner will be lower, where the same building houses more prisoners.⁸⁶

Figure 9 shows that there is some correlation between prison population and cost per prisoner per day. It indicates that Western Australia's prisons fall into two major groups. Prisons with medium to large populations (200 prisoners and above) tend to sit within a band of \$200 to \$400 per prisoner per day. However, the cost per prisoner per day for the State's smaller prisons is highly variable, ranging from around \$300 to \$1,300 per prisoner per day.⁸⁷

However, it should be noted that cost per prisoner per day can be offset by other drivers – for example, Casuarina, which houses maximum-security prisoners, is relatively costly despite its population. Additionally, the causal relationship between low population and high cost per prisoner per day is a complex one. Regional prisons tend to have a smaller populations because they are located in areas with low population density. However, their locations also result in high costs for other reasons (for example, transport and operating costs, as discussed below). Hence, the relatively high cost of many smaller prisons is not entirely accounted for by economies of scale.

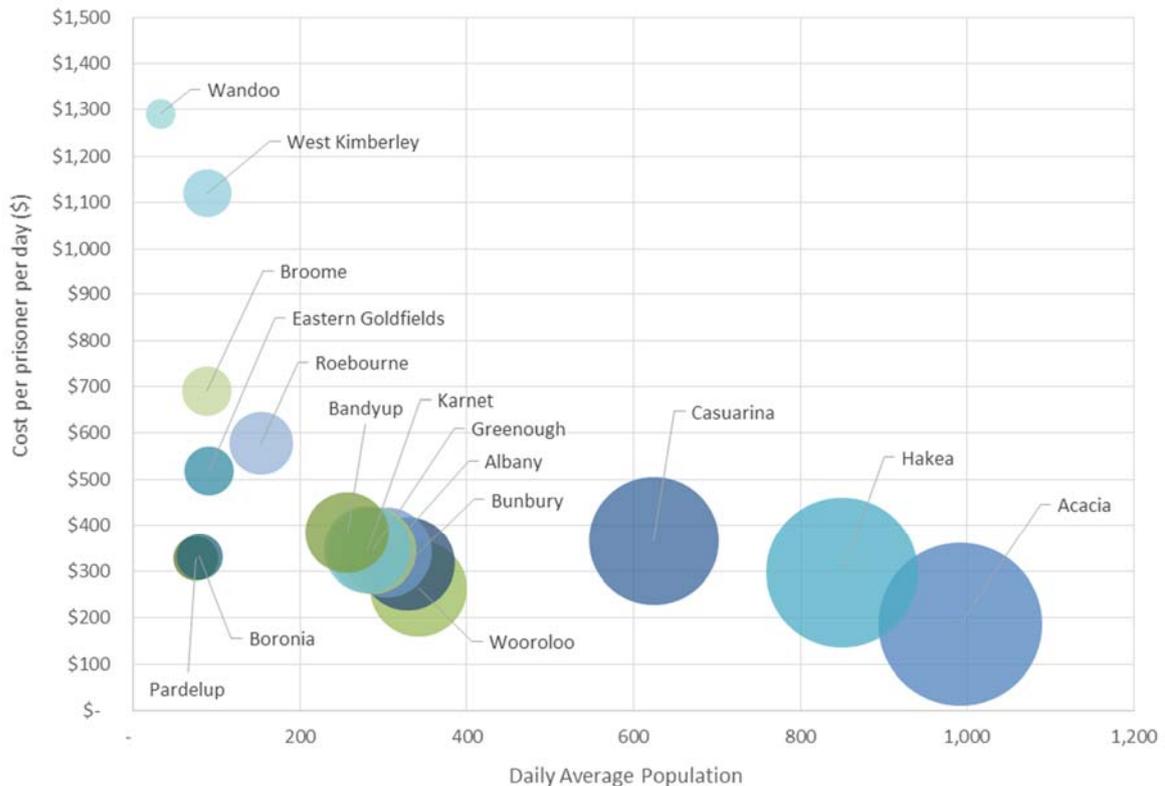
⁸⁴ The Department has informed the ERA that staff numbers are a function of the number of officers required to provide custodial care (determined by the number of prisoners), and the number of officers required to provide fixed services such as gatehouse and perimeter security.

⁸⁵ Prison layout has also been highlighted as a cost driver in submissions on the Draft Report. The ERA recognises that infrastructure is a factor in cost, but considers that layout is, in itself, a function of prisoner demographics and security classifications. Additionally, the age of prison infrastructure will have some effect depreciation and maintenance costs.

⁸⁶ Department staff have stated that this is evident in the Government's Custodial Infrastructure Program, where \$655 million was provided to deliver extra beds. While the funds have been spent, not all the extra beds have been commissioned to date, contributing to an increase in cost per prisoner per day. (Communication with the Department of Corrective Services, 21 September 2015; Department of Corrective Services, *Annual Report 2010-11*, Perth, Government of Western Australia, 2011.)

⁸⁷ This includes both public and private prisons in Western Australia. Wandoo is a low population/high cost prison, and conversely, Acacia is a high population/low cost prison.

Figure 9 Median cost per prisoner per day (2010-11 to 2013-14) (\$, real 2014-15) plotted against daily average prisoner population for the same period (circle size indicates population)



Source: Cost models provided by the Department of Corrective Services.

Number of staff

The number of staff employed is a major cost driver, particularly since most employment costs (for instance, salary and superannuation costs associated with each individual) are driven directly by employee numbers.⁸⁸

The employment costs attributed to each prison consist of the cost of staff directly employed to work at each facility (including prison officer and public servants), and an allocation of costs incurred in employing central Departmental staff.⁸⁹ Employment costs relating to central Departmental staff are allocated based on the number of full-time staff directly employed at each prison.⁹⁰

Additionally, other costs such as insurance are driven by staff numbers. The Department obtains insurance from RiskCover, the State Government insurer. In 2014-15, over

⁸⁸ As noted in Section 3.6.1, employment-related expenses account for over half of the cost of running the State's prisons.

⁸⁹ The Department has informed the ERA that some staff (particularly those engaged in health services and program delivery) may be notionally allocated to a specific prison, but work off-site, typically out of a Perth office.

⁹⁰ These overhead employment costs are primarily related to the provision of human resources, finance, and administrative services.

90 per cent of the Department's RiskCover fund contributions related to workers' compensation insurance.^{91,92} These costs are detailed in Figure 10, and Table 7.⁹³

Figure 10 Breakdown of DCS Contribution Charges paid to Riskcover insurance fund (2014-15)

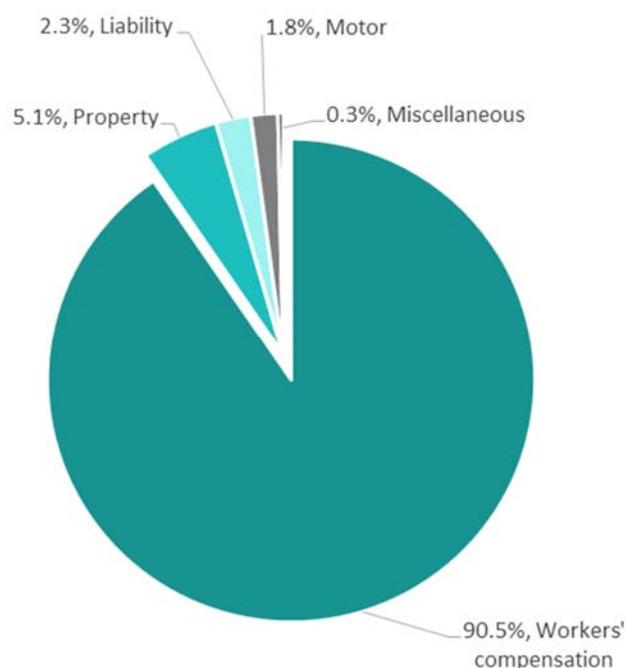


Table 7 Department of Corrective Services Contribution Charges paid to Riskcover insurance fund (2014-15)

Category	2014-15 contribution	% contribution
Workers' compensation	\$23,018,825	90.5%
Property	\$1,296,569	5.1%
Liability	\$588,813	2.3%
Motor	\$456,485	1.8%
Miscellaneous	\$85,998	0.3%
Total	\$25,446,690	100.0%

Source: Insurance Commission of Western Australia.

It should be noted that staff numbers are themselves affected by other cost drivers. For instance, the security classification of prisoners directly affects the number of staff required per prisoner in a facility.⁹⁴ Hence, the appropriate level of staff per prisoner would reasonably be expected to vary from prison to prison.

⁹¹ These contributions are based on the Department's annual Self-Insurance Risk Declaration, its claims experience, and an independent actuarial assessment. This insurance protects the Department against 'the risk of injuries to employees, accidental damage to assets and legal liability arising from agency activities'. (RiskCover, 'Fund Management', <https://www.riskcover.wa.gov.au/fundmanagement/home.shtml> (accessed 16 September 2015).)

⁹² Insurance Commission of Western Australia, *RiskCover Renewal Report 2014/2015: Department of Corrective Services*, Perth, Government of Western Australia, 2015.

⁹³ The ERA notes that Department's insurance claims paid by RiskCover will not necessarily mirror the amount paid by the Department to RiskCover to obtain its insurance. However, Department staff have indicated that workers' compensation is also the largest component of claims paid. (Meeting with the Department of Corrective Services, 5 August 2015.)

⁹⁴ Likewise, prisoners require different services and programs at different stages of a sentence. This can also influence the number and type of staff required at a facility.

Type of prisoners accommodated

Cost per prisoner per day for a given facility is closely related to the type of inmates housed at that facility, particularly in terms of security level, gender, and remand status. This is a consequence of both the type of facilities and services required for different types of prisoner, and the fact that remand prisoners impose significant up-front costs on the system.⁹⁵

Security classification

Discussions with stakeholders and the Department indicate that the security rating of prisoners is likely a driver of cost per prisoner per day per facility. The relative expense of constructing high security facilities, and the additional staff per prisoner required to manage the prison have been cited as reasons for cost differences between prisons of varying security levels in other jurisdictions.⁹⁶

The ERA considers this a reasonable assumption, and notes that it has also been made by the Productivity Commission.⁹⁷ However, the ERA considers that it is extremely difficult to quantify the precise degree to which security ratings drive prison costs in Western Australia. This is because almost all prisons in Western Australia accommodate prisoners with a variety of security classifications.⁹⁸

Nonetheless, prisoners of various security ratings do require different facilities, services, and staffing. As a consequence, security classifications influence the way funds are used in the construction and day-to-day operation of prisons.

The Department does not presently collect data that would allow for a robust assessment of the way in which prisoner security ratings affect prison costs. In the absence of this data, the ERA has instead outlined the approaches the Department could take in the future to perform such an analysis.

Refurbishment costs (and to some extent, construction costs) that relate directly to security modifications would be relatively easy to quantify, as they relate to design specifications. However, operating costs are more challenging to assess. A detailed understanding of the relationship between security classification and cost would need to be based on a thorough audit of the activities of each facility and identification of the costs associated with accommodation and operational needs of different types of prisoner. This would be a substantial undertaking.

Alternatively, simpler analyses focusing on the relationship between specific cost components and security classification could provide some insight. For instance, substantial work has already been done in the area of staffing, most notably as a part of the Department's most recent staffing review, which assessed current and proposed staffing

⁹⁵ Office of the Auditor General, *Management of Adults on Bail*, Perth, Government of Western Australia, 2015.

⁹⁶ For example, Connecticut General Assembly Legislative Program Review and Investigations Committee noted that “[t]he higher the security level, the more expensive it is to house an inmate. The facility design is more complex, and more staff are required to manage the population”. (Connecticut General Assembly, *Factors impacting prison overcrowding*, Hartford, Government of Connecticut, 2000.)

⁹⁷ Productivity Commission, *Report on Government Services 2015*, Government of Australia, 2015.

⁹⁸ Department staff have also noted that minimum-security prison costs in Western Australia are likely to be unusually high, as Western Australia's dedicated minimum-security facilities tend to have small populations, and be located in regional areas. They have also informed the ERA that prison industries add to the costs of facilities like Karnet, where staffing and infrastructure requirements are imposed by the facility's dairy and meat production.

levels in detail, at a prison-by-prison, and unit-by-unit level.⁹⁹ The review's findings detail how many officers and senior officers are required to staff a medium or maximum-security unit containing a given number of prisoners, in comparison to a minimum-security unit with the same population.¹⁰⁰ This information, in combination with payroll data, could allow for an analysis of how security classifications drive prison officer employment costs.¹⁰¹

Gender

Western Australia's women's prisons are generally more expensive than the State's men's prisons.¹⁰² This is likely an outcome of a number of factors that are difficult to separate, although the same trend has been observed in the other jurisdictions.¹⁰³ For instance, women's prisons tend to be smaller and have fewer inmates than men's prisons, resulting in a higher cost per prisoner. (Western Australia's male-only facilities housed a daily average population of 3,292 in 2013-14, while the female-only facilities housed only 353).

However, the cost of women's prisons is also influenced by factors other than small prison size. Women's prisons also incur additional costs due to the different services and facilities provided for female prisoners. For example, Bandyup not only provides medical care to prison inmates, but also incorporates a mother and baby unit where 'babies up to the age of 12 months can live with their mothers, if this is determined to be in the best interests of the child'.¹⁰⁴

Figure 11 and Table 8 illustrate the difference in cost per prisoner per day for Western Australia's dedicated men's and women's prisons.¹⁰⁵

⁹⁹ MacNamara, S., Borwick, T., Ireland, G. and Flynn, K., *The Staffing Review – June 2011 (Division of Adult Custodial: Review of Prison Officer Staffing Requirements)*, Perth, Government of Western Australia, finalised 2013.

¹⁰⁰ It also provides similarly detailed information on how many officers are required to provide prison industries security for various types of prisoner, and to provide perimeter security for maximum-security facilities.

¹⁰¹ The Department has informed the ERA that some preliminary analysis was conducted in this area in 2013, but no further work has been done.

¹⁰² Note that this does not hold true across each individual prison – for example, although Wandoo (a male-only prison) is around the same size as Boronia, it has a substantially higher costs per prisoner per day due to other factors (such as its population being well below capacity).

¹⁰³ For example, in House of Commons Justice Committee, *Justice Committee – Second Report – Women offenders: after the Corston Report*, London, Government of the United Kingdom, 2013; and Public Safety Canada, *2013 Corrections and Conditional Release Statistical Overview*, Ottawa, Government of Canada, 2013.

¹⁰⁴ Department of Corrective Services, 'Bandyup Women's Prison', <http://www.correctiveservices.wa.gov.au/prisons/locations/bandyup.aspx> (accessed 1 September 2015).

¹⁰⁵ The change in the cost per prisoner per day in mixed prisons in 2012-13 is due to significant changes in prison facilities and processes in regional prisons, specifically Broome and West Kimberley. This is discussed further in the section on prison location as a driver of prison cost.

Figure 11 Cost per prisoner per day by gender - dedicated male and female facilities only (2010-11 to 2013-14) (\$, real 2014-15)

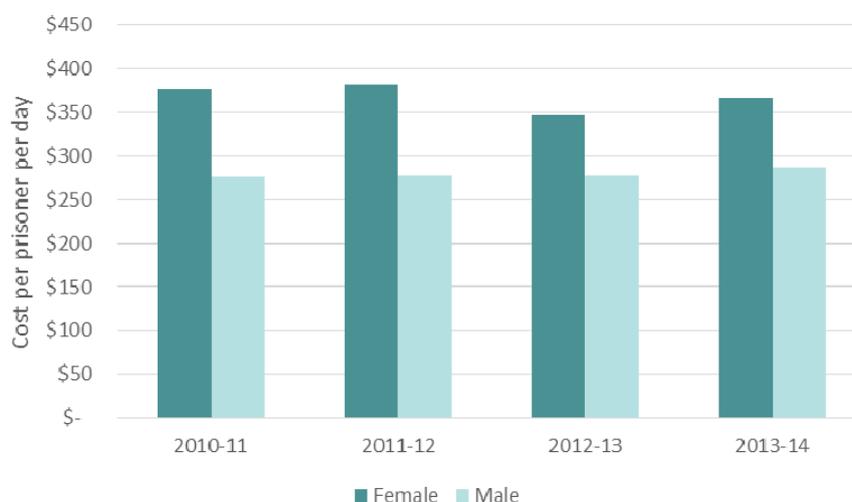


Table 8 Cost per prisoner per day by gender 2010-11 to 2013-14 (\$, real 2014-15)¹⁰⁶

Gender	2010-11	2011-12	2012-13	2013-14
Female	\$376	\$383	\$346	\$367
Male	\$276	\$278	\$278	\$288

Source: Cost models provided by the Department of Corrective Services.

Remand status

Prisons holding a percentage of remand prisoners are generally more expensive on a cost per prisoner per day basis than prisons that do not accommodate remand prisoners. The high cost per prisoner per day for short-stay inmates arises because costs associated with incarceration tend to be 'front-loaded'. That is to say, a disproportionate amount of the cost of accommodating a prisoner is incurred in the first few days of incarceration, such as the costs of performing administrative intake processes, and health and risk assessments.^{107,108}

The Auditor General has made a number of comments on the high cost of holding remand prisoners, stating that the cost of short-stay prisoners held for under a week can cost as much as \$770 per prisoner per day (a figure that appears to reflect the cost of holding a remand prisoner at a remote prison such as Broome), and that prisoners held on remand for more than a week before meeting their bail conditions cost the State 'around \$342 a day' in 2014.¹⁰⁹

¹⁰⁶ Department staff have queried whether the low cost per prisoner per day for male prisoners is the result of the particularly low cost per prisoner at Acacia. The ERA notes that even were Acacia to be excluded, cost per prisoner per day would still be higher at female-only prisons. Additionally, if there were sufficient female medium-security prisoners to warrant a prison like Acacia, they would still likely require additional services and facilities above and beyond those provided at a male-only prison.

¹⁰⁷ The Auditor General has noted that "the cost of bringing a defendant into the prison system is high regardless of the short time they spend there". (Office of the Auditor General, *Management of Adults on Bail*, Perth, Government of Western Australia, 2015.)

¹⁰⁸ Similar issues arise in relation to front-loading of costs when considering sentencing practices. A substantial proportion of Western Australians admitted to prison receive a short sentence; for example, in 2013-14, 33 per cent of sentenced prisoners received a term of fewer than 8 days. A more detailed breakdown of prisoners by length of stay is provided in Table 4141 in Appendix 5.

¹⁰⁹ Office of the Auditor General, *Management of Adults on Bail*, Perth, Government of Western Australia, 2015.

The proportion of remand prisoners will drive cost per prisoner per day at any given facility, and across the prison system as a whole. Having reviewed the Department's cost models and the complexities of allocating costs to specific prisons (and indeed types of prisoner), the ERA has not attempted to calculate its own cost per remand prisoner per day figure for each Western Australia's prison, as any figures based on the currently available data would not be sufficiently robust.¹¹⁰ The Department does not presently collect data in a form that would allow for such an assessment. However, the ERA considers that a future analysis could be undertaken in one of the following ways:

- As with the relationship between cost and security classification, the cost of accommodating remand prisoners could be potentially assessed via an audit of activities at each facility, identifying the costs associated with accommodation and operational needs of remand and non-remand prisoners. Again, this would require significant work.¹¹¹
- A simpler method could involve costing the main prisoner intake activities conducted in individual prisons and using the average stay of a remand prisoner to estimate intake costs on a per-day basis for those prisoners. While this would only capture a portion of total costs, and may need adjustment for short-stay prisoners who subsequently receive a custodial sentence, it would still allow for a better understanding of the cost imposed by remand prisoners.

Historical capital investment costs

Once built, a prison will incur depreciation and some fixed maintenance costs, regardless of the number of prisoners it houses. When a small portion of the prison's capacity is used, these costs will be spread over a smaller number of prisoners, resulting in a higher cost per prisoner per day. This is particularly evident in the case of Wandoo, as described above, which incurred a disproportionately high cost per prisoner per day due to the fact it was only partially used.

The ERA recognises that historical investment is an important cost driver of the prison system, and that its inclusion in cost per prisoner per day can provide valuable management information about how the system works as a whole. That said, it is also important to be clear about the purpose of including this figure in the cost per prisoner per day calculation and to present this information in a manner that can be clearly interpreted.

The inclusion of capital costs does not provide information about how prisons run on a day-to-day basis. However, as noted in Section 3.6 above, including capital costs in the cost per prisoner per day calculation provides information about the effectiveness of the Government's strategic investment decisions. For example, where decisions result in the construction of facilities that are not well-utilised (whether due to a poor choice of location, low numbers of the type of prisoners the facility was built to house, or other factors), the costs of construction and maintenance will still be evident in cost per prisoner per day.

Without further information, the inclusion of capital costs can make cost per prisoner per day difficult to interpret, as stakeholders cannot determine how much of the figure relates

¹¹⁰The figures published by the Auditor General are consistent with ERA's understanding of the Department's costs. However, the ERA is reluctant to calculate such a figure, on the basis that the cost models and other data provided by the Department do not provide sufficient information to reach a firm conclusion on the cost imposed by remand prisoners.

¹¹¹ That said, Department staff have suggested to the ERA that this is work that may need to be done as part of developing the plan for the new women's remand facility, and that this level of detail may be essential to plan efficiently for the future. Staff have also noted that it may be more efficient to operate a 100 per cent remand facility, rather than the model currently used at Hakea, where prison industries and education services are still required for sentenced prisoners (who only comprise around 20 per cent of the population).

to operating costs, and how much to capital costs. The figures cited in the Productivity Commission's *Report on Government Services*¹¹² incorporate capital costs, but is relatively transparent because the *Report on Government Services* figures includes supplementary information detailing both operational and capital cost per prisoner per day. This approach provides information to readers that allows for a clearer understanding of how planning and infrastructure strategies affect the cost of prisons.

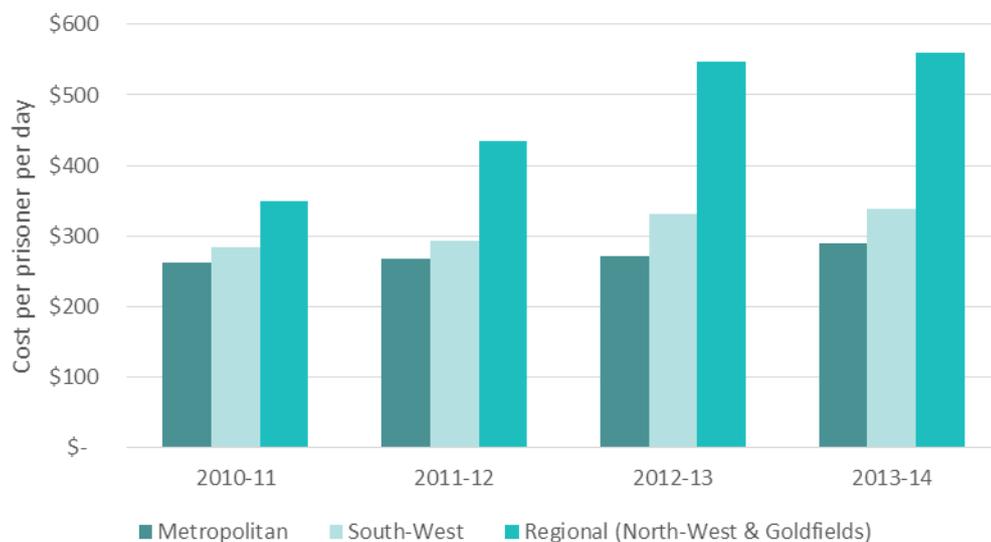
Disclosure of the individual components of cost per prisoner per day is also useful for clarifying the effects of Departmental and Government decisions relating to the maintenance of old prisons and construction of new prisons. For instance, it allows users to compare maintenance costs per prisoner per day over time, and also between an old prison and its replacement.

Prison location

Remote prisons will inevitably be more expensive on a cost per prisoner per day basis than metropolitan prisons. This is a consequence of various factors, including higher operational and construction costs in remote locations, additional prisoner transport costs, and lower prison populations. This is supported by the most recent Regional Price Index released by the Department of State Development, which showed that prices were around 11 index points higher than Perth in the Gascoyne, and 15 index points and 19 index points higher in the Kimberley and Pilbara respectively.¹¹³

Figure 12 and Table 9 below show the relative cost per prisoner per day of Western Australia's metropolitan and South-West prisons, in comparison to that of the regional prisons located in the North-West and Goldfields.^{114,115}

Figure 12 Cost per prisoner per day by region (2010-11 to 2013-14) (\$, real 2014-15)



¹¹² Productivity Commission, *Report on Government Services 2015*, Government of Australia, 2015.

¹¹³ Department of Regional Development, *Regional Price Index 2013*, Perth, Government of Western Australia, 2014. An index point is a statistical measure of the difference in price between different regions. To calculate the index, the Department of Regional Development compares the price of a common basket of goods at different locations in Western Australia against its price in Perth.

¹¹⁴ The change in the cost per prisoner per day in mixed prisons in 2012-13 is due to significant changes in prison facilities and processes in regional prisons, specifically Broome and West Kimberley. This is discussed further in the section on prison location as a driver of prison cost.

¹¹⁵ As discussed earlier in Section 3.6.1, the ERA notes that although remote prisons are more expensive on a cost per prisoner per day basis, it should be remembered that they account for a small proportion of total costs.

Table 9 Cost per prisoner per day by region (2010-11 to 2013-14) (\$, real 2014-15)

Region	2010-11	2011-12	2012-13	2013-14
Metropolitan	\$285	\$287	\$284	\$294
South-West	\$309	\$315	\$346	\$343
Regional (North-West & Goldfields)	\$379	\$465	\$572	\$567

Source: Cost models provided by the Department of Corrective Services.

While the additional costs associated with regional prisons might notionally be avoided by locating prisons in the metropolitan area, such a policy would have an impact on the effectiveness of the prison system, insomuch as maintaining prisoners' connections to family and community contributes to lowering the risk of re-offending.¹¹⁶ Consequently, the additional cost of operating the remote prison may ultimately be the more efficient and effective choice, where it is able to be more successful at lowering recidivism in a given cohort.

Prison location is also a key driver of transport requirements for any given facility, as discussed separately below.

Transport requirements

Transport requirements can represent a substantial part of the cost per prisoner per day for individual facilities. As with capital investment costs, they are included in cost per prisoner per day because they provide information about the total costs incurred as a result of the Department's broader operating policies and investment decisions, rather than the day-to-day costs incurred in operating a facility.¹¹⁷

While transport costs represent around 5 per cent of total costs for the prison system as a whole, they form a much larger part of the costs of certain prisons – for example, 11 per cent at Roebourne, 23 per cent at Eastern Goldfields, and 31 per cent of Broome, as shown in Table 10.¹¹⁸

Table 10 Transport costs as a proportion of total costs (2013-14)

Facility	% costs attributable to transport
Broome	31.0%
Eastern Goldfields	23.4%
Roebourne	10.7%
Greenough	8.8%
Bunbury	8.8%
Albany	6.1%
Hakea	5.2%
Bandyup	4.1%
Casuarina	3.1%

¹¹⁶ See for example: United Kingdom Ministry of Justice, *Transforming Rehabilitation: a summary of evidence on reducing reoffending*, London, United Kingdom, 2013; and Tasmania Department of Justice, *Breaking the Cycle – Tasmanian Corrections Plan (2010-2020) Background Paper: Pathways to Offending*, Hobart, Government of Tasmania, 2010.

¹¹⁷ As with capital costs, it is useful for the Department to publish transport cost per prisoner per day separately, as well as part of the aggregated cost per prisoner per day figure, to assist users in understanding how transport-related decisions contribute to the overall costs of the prison system.

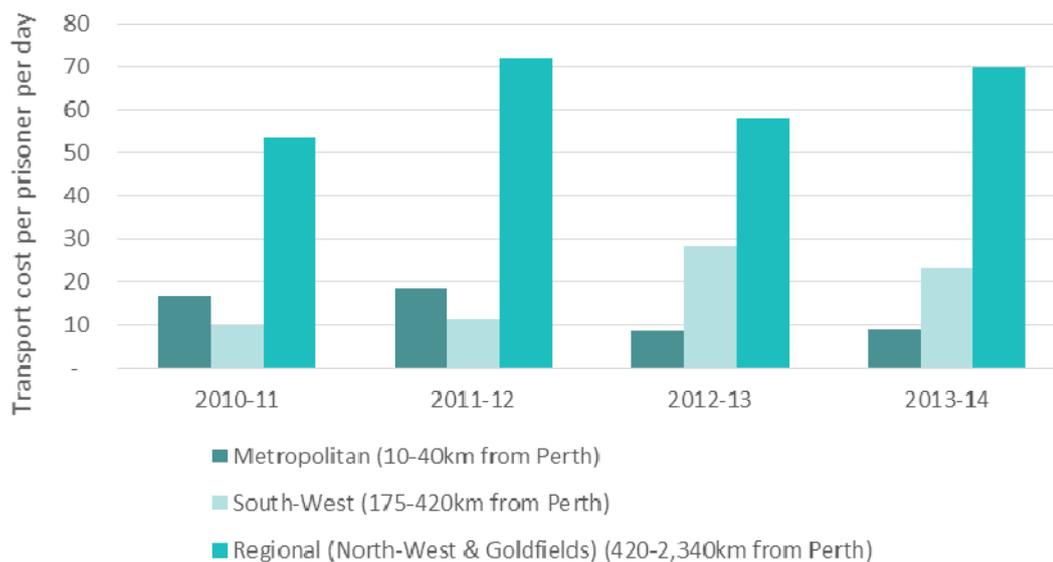
¹¹⁸ Note that, while West Kimberley is a remote prison, it does not have a high percentage of total costs attributable to transport. This is because the Department allocates transport costs to the prison of departure rather than arrival, and so most of the transport costs attributable to prisoners arriving at West Kimberley are reflected in Broome's costs.

Acacia	2.4%
West Kimberley	2.0%
Pardelup	1.3%
Karnet	0.8%
Wooroloo	0.4%
Boronia	0.1%
Wandoo	0.1%

Source: Cost models provided by the Department of Corrective Services.

While these percentages are driven by the way in which the Department allocates transport costs to individual prison (that is, by prison of departure), it is evident that more generally, transport costs are a major component of the cost of operating prisons in regional and remote areas. This can be seen in Figure 13 and Table 11, which show a correlation between transport cost per prisoner per day and the remoteness of each region.¹¹⁹

Figure 13 Transport cost per prisoner per day by region (2010-11 to 2013-14) (\$, real 2014-15)



Source: Cost models provided by the Department of Corrective Services.

Table 11 Transport cost per prisoner per day by region (2010-11 to 2013-14) (\$, real 2014-15)

Region	2010-11	2011-12	2012-13	2013-14
Metropolitan	\$17	\$18	\$9	\$9
South-West	\$10	\$11	\$28	\$23
Regional (North-West & Goldfields)	\$54	\$72	\$58	\$70

Source: Cost models provided by the Department of Corrective Services.

Additionally, distance from other facilities will affect costs. For example, building a prison in an area without access to court facilities can impose significant extra transport costs on the entire system, as transfer of remand prisoners to and from court is the major transport activity undertaken by the Department.¹²⁰

¹¹⁹ Some of the reasons for Wandoo's high cost per prisoner per day are outlined in earlier in this section.

¹²⁰ Department staff have commented to the ERA that transport costs are lower in areas where prisons and courts are co-located.

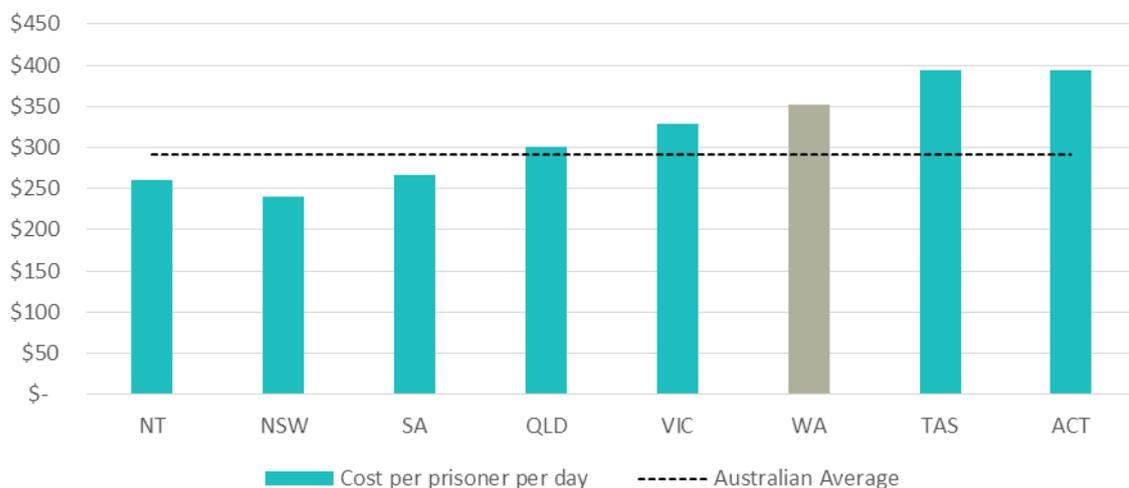
3.6.4.4 Interstate comparisons of cost per prisoner per day

The ERA noted in the Draft Report that the Department's cost per prisoner per day, as calculated in the *Report on Government Services*, is quite high compared to costs in other jurisdictions, stating that in 2013-14, Western Australia had an average cost per prisoner per day of \$352, compared to \$292 per prisoner per day nationally.¹²¹

These cost per prisoner per day figures are calculated specifically for the *Report on Government Services*, using a different methodology to the one the Department uses to report to Government of Western Australia (as described in Section 3.6.2). Most significantly, the figures calculated for the *Report on Government Services* are reported net of revenue, include cost of capital and debt servicing fees, and exclude prisoner transport costs. For State reporting purposes, the Department reports gross costs and includes the cost of prisoner transport. More detail on both approaches is provided in Appendix 3.

Figure 14 shows the cost per prisoner per day for Australian States and Territories, calculated using the *Report on Government Services* method.

Figure 14 *Report on Government Services* cost per prisoner per day in 2013-14 (in 2013-14 dollars)



Source: Productivity Commission, *Report on Government Services 2015*, Government of Australia, Table 8A.7.

The figures calculated for the *Report on Government Services* indicate that per prisoner per day is somewhat higher in Western Australia than in many other jurisdictions. The ERA considers that this is, at least to an extent, driven by factors that are specific to Western Australia, making it difficult to assess the relative efficiency of the State's prison system relative to that of other jurisdictions. These may include the State's population distribution, Western Australian and regional economic factors, and short-stay prisoner arrangements specific to the Western Australian justice system, as discussed in more detail below.

Regional factors

As noted in the discussion of cost drivers above, remote and regional prisons tend to be significantly more expensive, on a cost per prisoner per day basis, than their metropolitan

¹²¹ Productivity Commission, *Report on Government Services 2015*, Government of Australia, 2015, Table 8A.7. This figure includes total net operating expenditure and capital costs per prisoner per day.

counterparts. Western Australia's size and low population density¹²² has resulted in the establishment of a number of particularly remote facilities outside the South-West region.

It is difficult to adjust for the effect of these facilities on cost per prisoner per day, since all jurisdictions, with the exception of the ACT, have *some* regional prisons.¹²³ Further, the prisoners in these facilities would impose additional costs on metropolitan facilities, were they accommodated elsewhere, and the Department's overhead costs are unlikely to change proportionally in the absence of these prisons. Consequently, simply subtracting the costs of Western Australia's remote and regional prisons from the cost calculation does not result in a cost per prisoner per day figure that can be directly compared with those of other States.^{124,125}

Ultimately, it will always be difficult to arrive at a cost per prisoner per day figure that can be compared with costs in other jurisdictions.¹²⁶ This type of complexity is one of the reasons the ERA considers it particularly important for the Department to publish more detailed information on prison costs and cost drivers. The publication of a single cost per prisoner per day figure does not, on its own, provide meaningful information about funding needs and decisions in the prison system.

Management of short-stay prisoners

The Western Australian prison system also undertakes bail management and short-stay custody functions to a greater extent than corrective services agencies in many other jurisdictions, where these functions are often provided by police.¹²⁷ These include holding people in prison to process bail, or awaiting application to a court for bail where it has been denied by police, and holding people in prison to facilitate court processes (such as

¹²² Western Australia has a population density of around 1 person per square kilometre, in contrast to an Australia-wide population density of 3.1 persons per square kilometre. (Australian Bureau of Statistics, *3101.0 - Australian Demographic Statistics*, Canberra, Government of Australia, December 2014; Geoscience Australia, 'Area of Australian States and Territories', <http://www.ga.gov.au/scientific-topics/geographic-information/dimensions/area-of-australia-states-and-territories> (accessed 1 September 2015)).

¹²³ The Northern Territory is somewhat different to other jurisdictions. Since the closure of the Berrimah Correctional Centre in 2014, it has only two adult prisons, being a very large metropolitan facility (Darwin Correctional Centre, with 1,048 beds), and one substantial regional facility (Alice Springs Correctional Centre, which had a daily average population of 621 prisoners in 2013-14). (Northern Territory Department of Correctional Services, *Annual Statistics 2013 – 2014*, Darwin, Government of the Northern Territory, 2014; Northern Territory Department of Correctional Services, 'Darwin Correctional Centre', <http://www.correctionalservices.nt.gov.au/CorrectionalCentres/dcc/Pages/default.aspx> (accessed 4 September 2015).)

¹²⁴ Additionally, such an approach would fail to adjust for any unique features and geographic peculiarities of other jurisdictions.

¹²⁵ Department of Justice and Regulation, *Location Map for Prisons and Community Corrections (CSS) offices in Victoria*, Melbourne, Government of Victoria, 2013.

¹²⁶ Department staff have questioned this conclusion, and have commented that, by excluding Broome, West Kimberley, and Eastern Goldfields, the remainder of Western Australia's prisons fall within an area approximately the same size of Victoria. Hence, they consider that the cost per prisoner per day for these prisons could be compared with the cost per prisoner per day reported for Victoria. The ERA considers that this may not provide a meaningful comparison, since Victoria's prisons are themselves contained in a region far smaller than the State's total area, and are clustered densely around Melbourne and nearby regional centres. Differences in population density between the two regions may be a further complicating factor. The ERA notes that the identification of a comparable region (or one that is sufficiently comparable for the purpose of any given analysis) is a subjective exercise, and that parties will inevitably disagree on what constitutes 'sufficiently comparable', as seen in the comparison between South-West Western Australia and Victoria proposed above.

¹²⁷ Communication with the Department of Corrective Services, 1 September 2015. The Department notes that this shift in responsibility for short-stay prisoners is not the result of a specific policy, but is in part driven by an increased focus on frontline policing in Western Australia.

obtaining pre-sentencing reports). This can result in the admission of short-stay prisoners who would generally be held in police lockups or court custody centres in other States, subsequently increasing health, reception, and transport costs incurred by the Department.

While this is not a new feature of the Western Australian justice system, a number of arrangements and initiatives have further transferred responsibility for the custody of short-stay prisoners from police to the Department. For example, Sunday court sittings at the Perth Police Complex were introduced in 2014-15 to facilitate quick decision-making with regard to bail and remand, and so reduce the number of people held in police lockups. These sittings have reportedly reduced the number of people held in police lockups during the weekend by 30 to 40 people a weekend over the 2014-15 year. Of the 1,459 people appearing before the Sunday court during the year, 351 were remanded in custody, 260 had their cases dealt with immediately, and 848 were released on bail.¹²⁸ However, Department staff have informed the ERA that the majority of the people given bail were actually transferred to Hakea prison for processing. This indicates that, in cases where prisoners would previously have been held and processed at police lockups, the Sunday court initiative has reduced costs for the WA Police, but a portion of these costs have simply been transferred to the Department.¹²⁹

Similarly, the Department's Court Security and Custodial Services contract that commenced in July 2011 focused on quick clearances of police facilities, requiring regional police lockups to be cleared within 24 hours (decreased from 72 hours in the previous contract), and introducing a greater use of air transport for regional movements.¹³⁰ Department staff have advised the ERA that this has again resulted in increased costs for prisons, and particularly in the transport costs incurred by the Department where prisoners would have remained in police custody, in the absence of the 'clear out' requirement, and so avoided the need for prisoner transport.

Elsewhere in Australia, there is a tendency for the management of short-stay prisoners to be undertaken by either police, or by custodial officers in court cells rather than prisons.¹³¹ Consequently, in these jurisdictions, the cost of managing short-stay prisoners is not fully captured in figures that only measure the cost of operating prisons.

It is outside the scope of this Inquiry to undertake a detailed assessment of the division of responsibilities across parties in the Western Australian justice system. However, when considering metrics such as cost per prisoner per day across various Australian jurisdictions, it is important to consider that figures for Western Australia incorporate the

¹²⁸ Mischin, M. (Minister for Commerce), 'Sunday sessions bring rapid justice to WA', *Media Statement*, 12 July 2015. <https://www.mediastatements.wa.gov.au/Pages/Barnett/2015/07/Sunday-sessions-bring-rapid-justice-to-WA.aspx> (accessed 1 September 2015).

¹²⁹ Communication with the Department of Corrective Services, 3 September 2015. The Department's preliminary analysis indicates that prisoners who have already been granted bail by the court are subsequently transferred to Hakea for processing and very short stays (in some cases, less than 12 hours). In the first month of Sunday court sittings, these prisoners accounted for around a third of the prisoners sent from the court to Hakea.

¹³⁰ Western Australia, Legislative Assembly, *Debates*, Supplementary Information No. B9., 31 May 2012, p661b-664a.

¹³¹ For example, in Queensland, these prisoners may be detained in a police watch-house for periods of up to 21 days (*Corrective Services Act (2000) (Qld)*, Queensland), and in New South Wales, 24-hour court cell complexes provide prisoner intake services, including an assessment of the prisoner (Corrective Services NSW, *Offender Classification & Case Management Policy & Procedures Management*, Sydney, Government of New South Wales, 2015.) Similarly, in Victoria prisoners attending the Melbourne Magistrates Court are held in the co-located Melbourne Custody Centre, operated under a contract by Victoria Police (G4S Australia & New Zealand, 'Melbourne Custody Centre', <http://www.au.g4s.com/what-we-do/care-justice-services/police-support-services/melbourne-custody-centre/> (accessed 1 September 2015).)

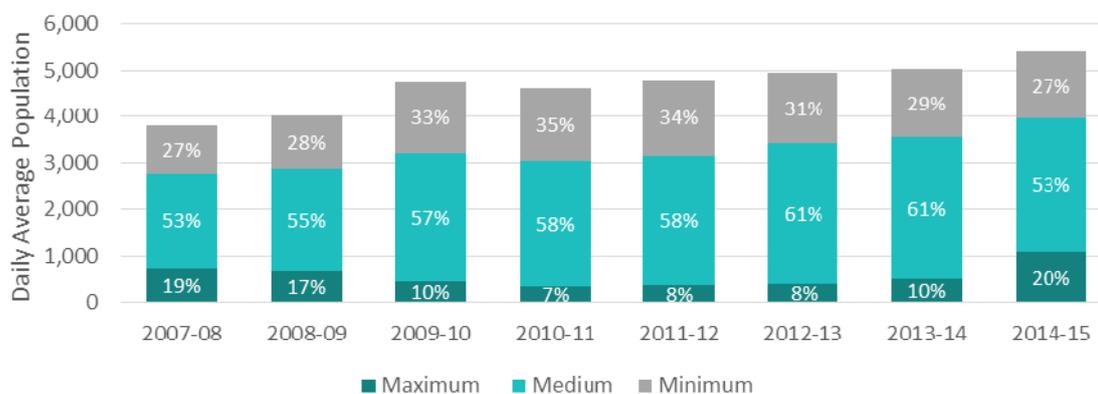
cost of providing functions and services that are not necessarily provided by prisons in other States.

3.7 Prison population

The security risk and demographics of the prison population have a large influence on how prisons are operated and the demand for particular prison types. For instance, if there is an increase in the number of high-risk prisoners, the demand for maximum-security prisons increases as well as the cost of detaining the prisoner due to increased security requirements.

The average daily prison population¹³² increased by 42.1 per cent between 2007-08 and 2014-15. This is higher than the general population growth for Western Australia of 20.9 per cent over the same period.¹³³ Figure 15 shows the increase in the prison population between 2007-08 and 2014-15.

Figure 15 Western Australian daily average prison population by security level (2007-08 to 2014-15)



Source: Department of Corrective Services, Annual Reports 2009-15, Perth, Government of Western Australia

Figure 15 also shows the prison population broken down into security classifications. There was a marked increase in prisoners in 2009-10. This year saw significant changes in the number of prisoners in each security classification. In 2009-10, the number of maximum-security prisoners decreased, while the numbers of medium and minimum-security prisoners increased. Since 2009-10, the composition of the daily prison population has been reasonably consistent with a slight increase in medium-security prisoners, except between 2013-14 and 2014-15, when the number of maximum-security prisoners doubled.

The Office of the Inspector of Custodial Services considers that there is poor alignment between the security rating of prisoners and the available accommodation.¹³⁴ For example, there are over 2,500 maximum-security beds for fewer than 1,000 prisoners, while there is an under provision of beds for medium and minimum-security prisoners.¹³⁵

¹³² The daily prison population is the average number of people in prison per day.

¹³³ Calculated for the period December 2007 to December 2014. Source: Australian Bureau of Statistics, 3101.0 - Australian Demographic Statistics, Dec 2014, Canberra, Government of Australia, 2015, Table 4.

¹³⁴ The Inspector of Custodial Services, 2013-14 Annual Report, Perth, Government of Western Australia, 2014, p. 11.

¹³⁵ The Inspector of Custodial Services, 2013-14 Annual Report, Perth, Government of Western Australia, 2014, p. 11.

3.7.1 Demographics of prisoners

Demographic characteristics of the prison population such as gender, culture, age and health affect both the type of prisons and the services required within the prison system.

In Western Australia in 2014-15, 90 per cent of prisoners were male and 10 per cent were female.¹³⁶ The incarceration rate for males (477.6 per 100,000) and females (47.9 per 100,000) is higher than the average incarceration rate for males (347.4 per 100,000) and females (28.1 per 100,000) across Australia.¹³⁷

In its submission to the ERA's Draft Report, ALSWA notes that *overrepresentation* of Aboriginal people in prisons (when compared to the proportion of Aboriginal people in the general non-prison population) is higher in Western Australia than in any other State or Territory. The ERA has confirmed this is accurate, as shown in Table 12.

In Table 12 the ERA has compared the percentage the prison population that is Indigenous (that is, including Torres Strait Islanders) to the percentage of the general adult population that is Indigenous for each State and Territory and nationally. The ratio of these two figures measures the extent to which Indigenous Australians are overrepresented in prison relative to the proportion of Indigenous people in the general adult population.

The ratios indicate that Indigenous Australians are overrepresented in the prison population in every Australian jurisdiction (as reflected by a ratio above one). However, Western Australia has the highest ratio at 13.8, indicating that it has the highest level of overrepresentation. In contrast, the percentage of the prison population that is Indigenous is highest in the Northern Territory (at 85.6 per cent). However, the Northern Territory has the lowest rate of overrepresentation, with a ratio of 3.4.

Table 12 Overrepresentation of Indigenous Australians in prison in 2014

	Aus	WA	NSW	VIC	QLD	SA	TAS	ACT	NT
Percentage of the Prison Population that is Indigenous	27.4%	39.7%	23.6%	7.8%	31.8%	22.6%	16.1%	16.1%	85.6%
Percentage of the General Adult Population that is Indigenous	2.3%	2.9%	2.2%	0.7%	3.2%	1.8%	3.8%	1.4%	25.2%
$\frac{\% \text{ Indigenous Prison Population}}{\% \text{ Indigenous General Adult Population}}$	11.8	13.8	10.6	11.8	9.8	12.4	4.2	11.3	3.4

Source: ERA analysis and Australian Bureau of Statistics, *Australian Bureau of Statistics, 4517.0 – Prisoners in Australia, 2014*, Canberra, Government of Australia, 2014, Table 13 and 3238.0 – *Estimates and Projections, Aboriginal and Torres Strait Islander Australians, 2001 to 2026*, Canberra, Government of Australia, 2014, Series B, 18 years and over and Australian Bureau of Statistics, 3101.0 – *Australian Demographic Statistics, Dec 2014*, Tables 51-59.

The age distribution of prisoners also influences the operational requirements of the prison system. Health and educational services are particularly affected by the ages of prisoners. For instance, older prisoners generally require higher levels of health care services than younger prisoners, while younger prisoners generally have a higher need for education programs. The majority of adult prisoners in Western Australia are aged between 20 and

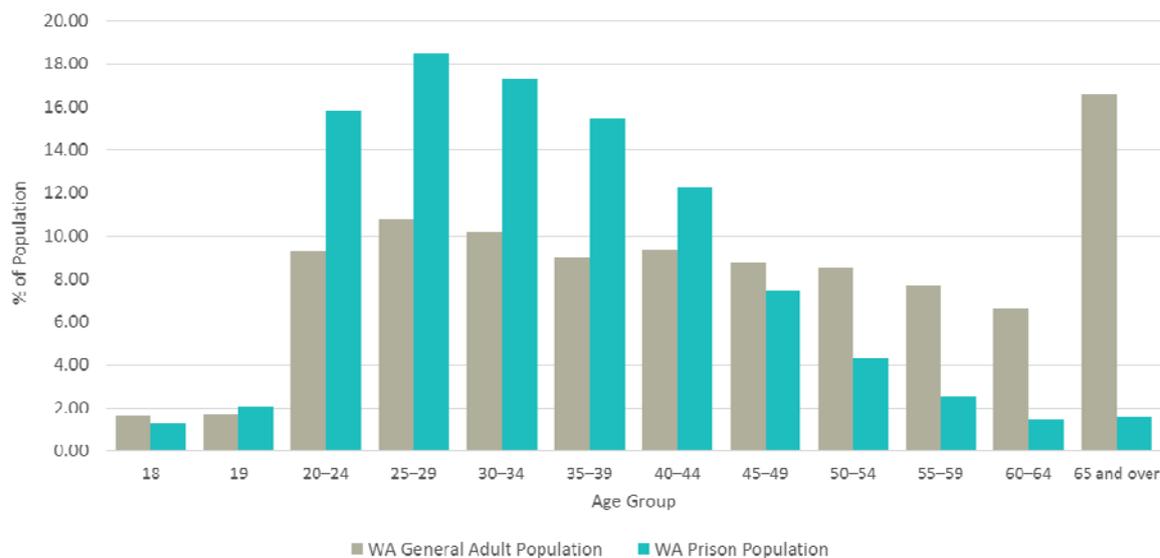
¹³⁶ ERA analysis and Department of Corrective Services, *Department of Corrective Services Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 18.

¹³⁷ Australian Bureau of Statistics, *4517.0 - Prisoners in Australia 2014*, Canberra, Government of Australia, 2014, Table 16.

39, with the average age of a prisoner being 35.¹³⁸ The distribution of prisoners' ages is provided in Figure 16.

The ERA has assessed the extent to which certain age groups are overrepresented in the prison population by comparing the percentage of the prison population of a given age group, with the percentage of the general adult population of the same age group. The results in Figure 16 show that people between 19 and 44 years of age are overrepresented in prison (as indicated by the greater proportion of these age groups in the prison population relative to their proportion in the general adult population). In contrast, older Western Australians are underrepresented in the prison population. This is most clearly seen in the age group of those 65 years and over, who represent 16.6 per cent of the general adult population but only 1.5 per cent of the prison population.

Figure 16 Age distribution of WA Prisoners and General adult population (2014)



Source: ERA analysis and Australian Bureau of Statistics, 4517.0 - *Prisoners in Australia, 2014*, Canberra, Government of Australia, 2014, Table 20 and Australian Bureau of Statistics, 3101.0 - *Australian Demographic Statistics, Mar 2015*, Canberra, Government of Australia, 2015, Table 55.

3.7.2 Reoffending rates

Rehabilitation of prisoners is a primary objective of the prison system. It is desirable from a social justice perspective. It is also important from a financial perspective; when a prisoner is not rehabilitated and returns to prison, it costs taxpayers on average \$332 per day.¹³⁹ The ERA estimates that the prison system as a whole may be spending as much as \$1 million per day on prisoners who have previously served prison sentences and have returned to the system.¹⁴⁰

¹³⁸ ERA analysis and Australian Bureau of Statistics, 4517.0 - *Prisoners in Australia, 2014*, Canberra, Government of Australia, 2014, Table 20.

¹³⁹ Department of Corrective Services, *Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 129.

¹⁴⁰ In 2013-14, on average, 3,220 prisoners had served a prior prison sentence. With a cost per prisoner per day of \$334 (in 2013-14), this equates to a daily cost of \$1,075,480. This figure is a reflection of total cost. While the ERA acknowledges that a figure based on marginal cost would be more accurate, it has been unable to calculate this cost because the Department has been unable to provide the requisite data. (Australian

The rehabilitation of prisoners is generally measured in rates of recidivism.¹⁴¹ The Department currently measures recidivism using a simple rate of return measure. That is, the percentage of prisoners returning to prison within two years of their release. This is the measure used in jurisdictions across Australia.

In 2014-15, 43 per cent (or almost half) of all prisoners were returning to corrective services (prison or community corrections) within two years of their release.¹⁴² 36 per cent of prisoners returned to prison within two years of their release.¹⁴³ However, the rate of return is considerably higher for some groups in the prison population. Young people and Aboriginal people, in particular, are far more likely to reoffend.¹⁴⁴ In total, 61 per cent of the people in prison in Western Australia in 2014 had been in prison previously.¹⁴⁵

Figure 17 Recidivism rates by prisoner release year (2008-09 to 2012-13)



Source: Productivity Commission, *Report on Government Services 2014*.

Figure 17 shows that recidivism in Western Australia has declined in recent years, from above the national average in the years from 2008-09 to 2010-11 to below the national average in 2011-12 and 2012-13. This in itself does not prove that Western Australian prisons have been effective at reducing recidivism, as there are a number of factors that affect the recidivism rate or limit its usefulness as a measure of a prison's performance against rehabilitation objectives.

International comparisons of recidivism rates suggest that Western Australia's performance is broadly consistent with other States and Territories, although there is potential for

Bureau of Statistics, *4517.0 - Prisoners in Australia 2014*, Canberra, Government of Australia, 2014, Table 27.)

¹⁴¹ Recidivism refers to a tendency to relapse into a previous condition or mode of behaviour. In the context of a prison system, it refers to a relapse by former prisoners into criminal behaviour and a corresponding return to prison or community corrections.

¹⁴² Department of Corrective Services, *Department of Corrective Services Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 45.

¹⁴³ Department of Corrective Services, *Department of Corrective Services Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 45.

¹⁴⁴ Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, Perth, Government of Western Australia, 2014, p. 1.

¹⁴⁵ Australian Bureau of Statistics, *4517.0 - Prisoners in Australia 2014*, Canberra, Government of Australia, 2014, Table 13.

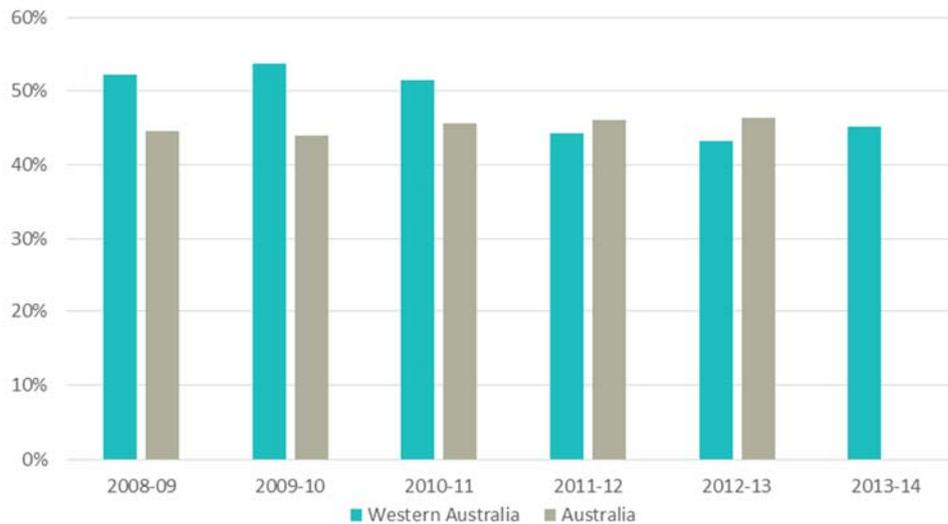
improvement. Jurisdictions that report on the same recidivism measure as Western Australia (and hence can be used as a comparison)¹⁴⁶ include New Zealand (recidivism rate of 37 per cent),¹⁴⁷ Ireland (40 per cent),¹⁴⁸ and Norway (20 per cent).¹⁴⁹

In order to decrease reoffending rates, the corrective system provides services and programs that assist prisoners to learn new skills that will help them gain employment upon release. These programs include education and vocational training through working in prison industries.¹⁵⁰

The Department has recently initiated an Integrated and Individualised Case Management framework to reduce reoffending rates. This complements the personal development activities and rehabilitation programs conducted.

Figure 18 provides the percentage of prisoners in Western Australia and Australia released from custody after serving a sentence and subsequently returning to corrective services (both custodial and community corrections) within two years of their release.

Figure 18 Percentage of prisoners returning to corrective services within two years of release¹⁵¹ (2008-09 to 2013-14)



Source: Department of Corrective Services, *Recidivism trends in Western Australia with comparison to national trends*, Perth, Government of Western Australia, 2014, p.9.

¹⁴⁶ Providing an international comparison of recidivism rates is difficult, given differences in the way recidivism is reported in different jurisdictions. Other jurisdictions may report on a different period (for example, one year following release instead of two years), or jurisdictions may report on the number of prisoners committing any offence, not an offence that results in a prison sentence.

¹⁴⁷ Controller and Auditor General of New Zealand, *Department of Corrections: Managing offenders to reduce reoffending*, Wellington, Government of New Zealand, 2013, Appendix 3.

¹⁴⁸ The Scottish Centre for Crime and Justice Research, *Reducing Reoffending: Review of Selected Countries Final Report for Audit Scotland*, Glasgow, University of Glasgow, 2012, p. 19.

¹⁴⁹ The Scottish Centre for Crime and Justice Research, *Reducing Reoffending: Review of Selected Countries Final Report for Audit Scotland*, Glasgow, University of Glasgow, 2012, p. 19.

¹⁵⁰ Prison industries include farming, manufacturing timber, concrete products, steel fabrication and printing.

¹⁵¹ Data for Australia is only available to 2012-13.

4 Assessment of the prison system

4.1 Introduction

The purpose of this chapter is to provide a high-level description of the key issues affecting the efficiency and performance of the prison system.

The ERA's observations are largely based on consultations with a range of stakeholders working in, and in contact with, the Western Australian prison system. Some consistent themes arose from these consultations. However, the ERA has needed to reconcile some alternative perspectives and has sought additional evidence and clarification where this has occurred.

The ERA has observed that there is scope to strengthen the governance arrangements applied to public prisons in Western Australia to improve overall performance of the prison system. In particular, the ERA considers there is a need to:

- *Clarify roles and responsibilities* – Boundaries in the decision-making powers between the Department and Superintendents of public prisons are not clearly defined. Greater formalisation of the relationship between the Department and Superintendents will require changes to the operation of the prison system, and must be supported by appropriate analysis, consultation, and reallocation of resources.
- *Ensure greater accountability* – Accountability in the public prison system can also be improved by clarifying the respective roles and responsibilities between the Department and Superintendents of public prisons. Such clarity will make it clearer who is responsible for specific decisions and outcomes.
- *Provide greater transparency* – Publication of detailed information by the Department will allow all stakeholders to make a robust, independent assessment of the performance of public prisons, and enable informed public debate. In addition, the Department can provide information to service providers working with the prison system to allow them to better assess how well they are performing and improve their service offerings.
- *Address issues with information system, planning and controls* – The Department will be in a better position to plan for the future if it ensures that its information systems are able to provide robust and reliable data, and if it allocates sufficient skilled staff to analyse and apply the findings from this data.

In addition, the ERA has observed that there are some issues with the culture of segments of the workforce in the Department, and of individual public prisons (as discussed in more detail in Section 4.4.5). In particular, the ERA has observed that there is some resistance to change and a reliance on entitlements among some staff. This creates a barrier to reform and the introduction of more effective working arrangements, and can hinder the broader efforts of those staff who are committed to improvement of the prison system.

The ERA considers that strengthening the governance arrangements in the prison system will improve overall performance. These performance improvements are likely to include enhancing rehabilitation outcomes for prisoners, ensuring the effective use of public money in providing prison services, and maintaining appropriate utilisation rates of prisons.

The remainder of this chapter comprises discussions on:

- a summary of submissions relating to the ERA's assessment of the prison system in its Draft Report;
- the importance of good governance;

- the shortcomings in the governance arrangements in the Western Australian prison system;
- the consequences of shortcomings in the governance arrangements for the performance of the Western Australian prison system;
- the current reform program of the Department; and
- the findings of past inquiries into the Western Australian prison system.

4.2 Summary of submissions on the Draft Report and ERA response

The ERA received submissions from stakeholders on the Draft Report discussing the following topics:

- governance issues in Western Australia's prisons;
- inadequacies in the Department's planning, processes, and information systems;
- the *de facto* management role of WAPOU;
- cultural issues within the Department;
- rates of recidivism; and
- the Department's current reform program.

In the following sections, the ERA provides a summary of the submissions from stakeholders on each of these topics and the ERA's response

4.2.1 Governance issues in prisons

Several submitters comment on the ERA's findings of issues with governance arrangements in the Western Australian prison system, including ALSWA, the CPSU/CSA and Mr Papalia.

ALSWA supports the ERA's findings and views on the need for more robust governance arrangements for the Western Australian prison system. However, the ALSWA expresses concern about whether there are sufficient and effective programs and services designed to reduce reoffending and facilitate rehabilitation. ALSWA states that there is a risk that responsibility for these programs and services might shift from a section of the Department to an individual prison operator, in the event of a change in the way the prison system currently operates. However, ALSWA notes that unless there is a whole-of-government approach to ensuring that prisons offer appropriate programs and services and a commitment from government to ensure the necessary resources, any changes to governance arrangements are unlikely to result in significant improvements.

The CPSU/CSA supports the principle of accountability, but expresses concern that the ERA has not presented sufficient empirical evidence to support claims in this section. The CPSU/CSA supports best practice management of business data to support transparency. However, the CPSU/CSA considers that the ERA has not provided sufficient information to support the claim that the Department does not operate business data management models within best practice.

Mr Papalia considers that the ERA has implied in the Draft Report that private prisons in Western Australia are more efficient and transparent. Mr Papalia questions this conclusion based on three key reasons:

- He states that a number of assumptions are based on dated analysis by the Office of the Inspector of Custodial Services, and that the relevance must now be questioned in light of the 50 per cent increase in prisoner numbers at the privately run Acacia prison (since the Office of the Inspector of Custodial Services' report was written) and subsequent evidence of significant security failures at the prison.
- He considers a far more comprehensive analysis and comparison of costs of private and public prisons must be undertaken before comparative benefits can be determined. He notes the most recent Auditor General report into Bail Management has revealed substantial cost imposts on the public prison system during initial induction of prisoners into the system that are not incurred by private prisons. Mr Papalia states that this undermines the assumption that private prisons are significantly cheaper.
- Mr Papalia's view is that it is not desirable for private enterprise to profit from the enforced incarceration of Western Australian citizens.

WAPOU restates its opposition to private enterprises profiting from providing prison services. It submits that there is a potential for human rights abuse in private prisons that is higher than that seen in public prisons.

4.2.1.1 *ERA response*

The ERA notes the substantive points raised by submitters in relation to governance issues in prisons, which cover:

- appropriate allocation of responsibility for development of programs;
- the ERA's findings relating to Department's data management practices;
- the ERA's statements regarding the relative efficiency of public and private prisons; and
- the ethical implications of operating private prisons.

The ERA has addressed each of these issues below.

Responsibility for development of programs

The ERA agrees with ALSWA that the development of sufficient and appropriate program services is not the responsibility of individual prisons, although it notes that prison operators do have a responsibility to feed robust information back to the Department, as to how well program delivery works on a day-to-day basis. A whole-of-Department approach, particularly in consultation with the wider justice and human services sectors, is better suited to designing and delivering effective, evidence-based programs.

Data management practices

The CPSU/CSA comments that the ERA has not provided sufficient information to support the claim that the Department does not operate business data management models in accordance with best practice. The ERA notes that Section 7.3.3 and Appendix 4 provide examples and a discussion of the ways in which the Department's management of business data fails to meet best practice. The evidence provided in this section includes the ERA's own observations, information provided by a range of Departmental staff at different levels and in various teams, and an extensive list of problems identified by the Office of the Auditor General over the past five years.

Relative efficiency of public and private prisons

The ERA did not conclude in the Draft Report that private prisons are more efficient than public prisons. Rather, it noted that, in recent inspections, the Inspector of Custodial Services found Western Australia's two private prisons were generally performing to a high standard. The ERA also stated that "[t]his is not to suggest that the private sector is inherently better at delivering prison services than the public sector, nor that the private sector should be the preferred provider. Rather, private prisons are performing to high standards because they are held to clear and robust standards of accountability and transparency."

In relation to the cost of operating Western Australia's public and private prisons, the ERA has provided a more comprehensive discussion in Chapter 3 of this Final Report. Chapter 3 also comments on the Auditor General's recent report on bail management.

Ethical implications of private prisons

In relation to the ethics of operating prison facilities on a for-profit basis, the ERA is aware that this has long been a subject of academic and public debate. However, the ERA also notes that human rights abuse can occur in public prisons, and conversely, prisoners can receive high quality care in private prisons. The ERA considers that any ethical debate is a matter to be addressed by Government policy-makers, who are best placed to ensure that public policy reflects the values and societal expectations of the Western Australian public.

The ERA also acknowledges the role of the Inspector of Custodial Services in ensuring that all prisons, whether public or private, are operated in an ethical and responsible manner.

4.2.2 *General inadequacies in planning, processes and information systems*

The CPSU/CSA considers that the Department did have the capacity to quantify the likely effects of proposed policy changes until relatively recently. The CPSU/CSA considers the Department no longer has this capacity due to some senior management activities of recent years and staff turnover, which have resulted in key workers with the required analytical skills leaving the Department. The CPSU/CSA further states that the Department has not invested in replacing these workers. On this basis, the CPSU/CSA strongly refutes the claim that there is poor decision-making across all levels of operations.

4.2.2.1 *ERA response*

The ERA agrees that both staff turnover and management policies (particularly in relation to recent redundancies) have hindered the Department's ability to perform high-quality analysis and quantify the likely effects of proposed policy changes.

However, as detailed in Chapter 7, the ERA considers that the Department's administrative processes and systems do not provide staff with the tools required to facilitate good decision-making in many areas. This is supported by comments made by many Department staff to the ERA, who consider that weaknesses in this area make it unnecessarily difficult for them to perform their jobs to the standard they wish. The ERA considers that decision-making that is not supported by appropriate information or analysis is a systemic issue within the Department. This does not necessarily reflect on the skills and capabilities of individual officers.

4.2.3 *De facto management role of WAPOU*

WAPOU submits that the suggestion by the ERA that WAPOU has a quasi-managerial role (on the basis of specific clauses in the Enterprise Agreement) demonstrates a fundamental

misunderstanding of trade unions and professional associations and their role in modern Australia. WAPOU states that the Enterprise Agreement sets out terms negotiated between the parties over many months, and represents considerable compromise on the part of both parties.

WAPOU notes that the specific clauses cited by the ERA as demonstrating that WAPOU has a *de facto* management role have contributed to sound management of the prison system and that commensurate clauses are common in enterprise agreements for other public service sectors.

- *Consultation processes* (clause 169 of the Enterprise Agreement). WAPOU states that these clauses allow for consultation on a range of matters at a prison level and Departmental level. In a non-exhaustive survey of other public service agreements, WAPOU identifies similar standing bodies between the employer and trade union (including the Crime and Corruption Commission, dental officers, school education employees' and police school traffic wardens). WAPOU considers that Departmental and prison based consultative processes has contributed to historically low levels of formal dispute between the parties. WAPOU's view is that the consultative process aids efficiency and effectiveness of managerial decision-making.
- *Introduction of Change or Significant Change* (clause 173 of the Enterprise Agreement). WAPOU points out that these clauses require Superintendents to consult with prison officers on significant changes to the workplace. WAPOU notes that the agreements for police, Public Transport Authority, dental officers, Corruption and Crime Commission, TAFE lecturers, WA Health and police school traffic wardens have similar requirements to the Enterprise Agreement for prison officers. Further, WAPOU notes that the Fair Work Ombudsmen's best practice guide to consultation and cooperation at the workplace sets out that every modern award contains a standard consultation clause dealing with the requirement for employers to consult with employees and their representatives on significant changes to the workplace.
- *Dispute resolution and status quo provisions* (clauses 174-177 of the Enterprise Agreement). WAPOU states that these clauses allow a status quo to be invoked if prison officers object to an operational change that has a significant effect. WAPOU notes that agreements between WA Health and the Australian Nurse Federation and HSUWA, and agreements for WA Fire Services, School Education Employees, and the TAFE Lecturers have similar provisions. WAPOU states that the purpose of such provisions is to stop industrial disputes becoming inflamed and more difficult to resolve. Furthermore, WAPOU highlights that clause 174.3 provides for the Western Australian Industrial Relations Commission (**WAIRC**) to be able to lift the status quo if they consider this is warranted.

WAPOU notes that the Staffing Agreements flow from the WAIRC conciliated resolution of industrial action in 2002 and the request of Government to include a process for the current Memorandum of Understanding in the *2010 Enterprise Agreement*. WAPOU states that the Agreements create benchmarks for workload and have lowered levels of disputation and that the effects of the series of strikes in 2002 cannot be underestimated. WAPOU's view is that the ability of the parties to find resolution to underlying causes (such as safe staffing levels) shows maturity as industrial parties.

WAPOU states itself to be the professional voice for prison officers in Western Australia noting that its role is not strictly limited to pay and conditions for prison officers. WAPOU highlights that it is properly accountable as any union is to its members. WAPOU considers that if it were accountable to the Department (which the ERA notes it did not suggest in its Draft Report), it would be reduced to little more than a house-union with no legitimacy. WAPOU states that it represents its members within the boundaries of current laws and that

the outcome of any dispute may affect the management of resources. WAPOU submits that the suggestion that WAPOU has some greater responsibility or role is purely ideological.

4.2.3.1 ERA response

The ERA expressed a view in its Draft Report that WAPOU has a significant *de facto* management role in the prison system. Consequently, WAPOU has influence over the cost and performance of the prison system, but unlike prison operators is not accountable to Government or the Western Australian public for any outcomes that may arise. In its submission to the Draft Report, WAPOU raises a number of points in support of its role in the prison system, particularly noting similar powers of other trade unions in the public sector.

The ERA acknowledges the role of unions in having a say in management and operational decisions that affect the safety and well-being of prison officers. More specifically, the ERA notes that WAPOU has an important role in ensuring that prison officers have input into decisions to mitigate the risks they are exposed to as a part of their employment. Due to their on-the-ground role, prison officers generally have a strong understanding of the day-to-day operation of prison facilities.

However, the ERA notes that WAPOU's current role appears to go beyond ensuring the safety of prison officers, and risks limiting the Department's ability to provide effective and innovative prison services. This is evident in both the number and nature of dispute notices issued by WAPOU.

By way of example, the ERA notes that 19 dispute notices were issued by WAPOU across the Western Australian prison system in July 2015.¹⁵² The majority of these related to staffing levels and redeployment of officers to other duties (most often as guards at Fiona Stanley Hospital). The ERA understands that the redeployment of officers may at times result in understaffing of prison facilities, and that understaffing can result in serious safety concerns for both officers and prisoners. However, some facilities appear to raise a disproportionate number of disputes, and the ERA questions whether the use of the dispute mechanism genuinely reflects the level of risk at those facilities. (For example, 34 disputes relating to Karnet Prison Farm, a minimum-security facility, were raised in the three months to 31 July 2015 – an average of one dispute every two to three days.)

Further, other notices cited 'introduction of change' as a reason for the dispute. For instance, a dispute notice was issued on 18 June 2015 at Roebourne Regional Prison in relation to 'Indigenous Military Experience Week'. This event was a joint initiative between the Commonwealth Department of Defence and the Department of Corrective Services, conducted with the assistance of Aboriginal elders, and designed to provide Aboriginal prisoners with an appreciation of the career opportunities available to them. The ERA considers that use of a formal dispute mechanism to address concerns about such an initiative may be a questionable use of WAPOU's powers.¹⁵³

4.2.4 Cultural issues in the Department and prisons

Several submitters comment on the ERA's observation that there are issues with the culture of segments of the workforce in the Department and individual public prisons. These submitters were Andrew *et al*, the CPSU/CSA, and WAPOU.

¹⁵² Register of management dispute notices arising under the *Department of Corrective Services Prison Officers' Enterprise Agreement 2013* provided by the Department of Corrective Services on 28 August 2015.

¹⁵³ Parliament of Western Australia, Legislative Assembly, *Debates*, 19 August 2015, p.5595b.

Andrew *et al* consider that the ERA makes significant claims about the effects of workplace culture on costs, efficiency and productivity in Western Australian prisons, but does not substantiate the connection between workplace culture and cost.

However, Andrew *et al* consider that there is a strong correlation between workplace efficiencies and the retention of skilled employees. They note employee turnover can increase when access to employee entitlements (such as workers' compensation) is reduced as employees will seek work that is better remunerated. It was stated that a short-term benefit in terms of a lower wage bill may translate into longer term problems derived from an inexperienced workforce. Andrew *et al* cite a study of the Australian aged care sector that highlighted the importance of introducing appropriate wages, benefits and entitlements to avoid negative outcomes derived from workforce instability.

In contrast, the CPSU/CSA agrees with the ERA that organisational culture can affect organisational performance. However, the CPSU/CSA submits that the ERA has not analysed the Department's human resource practices, which can also affect an organisation's culture. They consider any assessment of the ERA's conclusions on culture are problematic because it does not consider people management practices.

WAPOU considers that the ERA provides inadequate evidence that employees within the Department are resistant to change because the ERA has provided only two examples.

- The first example given by WAPOU related to resistance by prison officers to changes to rosters to better use infrastructure. WAPOU states that so little information is provided that it is impossible to respond in any meaningful way. WAPOU highlighted that prison officers are very committed to the role they carry out and are supportive of changes that will result in a positive outcome.
- The second example given is staff working strictly to their hours and job requirements. WAPOU notes that CPSU/CSA members are working strictly to hours in response to the effects of Departmental cuts. WAPOU states that this was campaigning by union members against negative impacts such as undue workload pressures and cannot be fairly quoted without providing context of the specific issues at hand.¹⁵⁴

The CPSU/CSA submits that its members are committed to the efficient and effective delivery of public services in Western Australia. Feedback from members indicate that they support a well-managed reform of the Department and are not resistant to proposed changes. However, the CPSU/CSA notes that the structure of the Department has been in a state of flux and confusion since the Office of Reform was established in late 2013. They submit that key areas of the Department have been functioning without consistent senior management. They consider there appears to be a lack of clarity about ongoing responsibility for knowledge transfer and general operations, which has led to morale issues, and high turnover of mid-level employees.

WAPOU questions the analysis by the ERA to demonstrate that the amount of overtime paid to prison officers is high. WAPOU notes statistics presented by the ERA indicate that 30 per cent of overtime is to cover personal leave and 10 per cent to cover workers' compensation. WAPOU criticises this approach because no information is published on the drivers of the remaining 60 per cent of overtime. Furthermore, WAPOU notes that the ERA has not provided a breakdown of the types of personal leave for which overtime has been claimed, limiting the ability of WAPOU to comment on the volume of leave taken.

¹⁵⁴ The Department has advised the ERA that they have not been told by the CPSU/CSA of any formal industrial action. The ERA notes that the CPSU/CSA did not refer to this practice as a formal campaign in its submission to the ERA.

WAPOU considers that comparisons should be made to indicate whether prison officers are more likely than other employees to access personal leave for ill-health or workers' compensation. WAPOU states that higher rates of personal leave and workers' compensation may reflect the harsh and stressful conditions that prison officers operate under rather than cultural issues. It was stated that corrections fatigue¹⁵⁵ manifests in a cumulative toll on staff health and functioning and leads to increased incidence of sick leave due to stress related ill-health. WAPOU notes Safe Work Australia found in 2013 that prison officers had the fourth highest incidence of accepted compensation claims for mental stress in Australia (after train drivers, police and ambulance drivers) and the second highest amongst female prison officers.

Andrew *et al* and WAPOU both consider that comparisons should not be made between Acacia and public prisons, without consideration of other factors, such as the age of the workforce, staff turnover, design of the facility, and prisoner cohort.

Andrew *et al* and WAPOU consider it reasonable to expect a lower level of workers' compensation claims in the private system due to prisoner cohorts being less volatile because private prisons do not have remand or maximum-security prisoners.

Furthermore, WAPOU notes that employers may have negative perceptions of staff exercising rights in newly unionised workplaces and this can result in under-reporting of incidents and reduced safety. WAPOU understands this to be the case at Acacia.

4.2.4.1 ERA response

The ERA considers that the link between workplace culture and efficiency (and hence costs) is well documented,¹⁵⁶ and notes that the CPSU/CSA's submission also supported this concept. The ERA also agrees with Andrew *et al* that there is a connection between retention of employees and efficiency.

Stakeholders raised a variety of specific points in relation to the ERA's comments on workplace culture in the Draft Report, the most substantive of which were that:

- low salaries will make it difficult to attract and retain skilled employees;
- the Department's human resource management practices have not been adequate to support efficiency and effectiveness;
- the ERA has not provided sufficient evidence that there is a resistance to change in the Department; and
- the ERA has not fully recognised the drivers of workers' compensation claims and overtime, in citing these as examples of cultural problems.

The ERA has addressed each of these issues below.

Level of salaries

The ERA agrees that salaries need to be fair and reasonable to attract and retain a quality workforce, and notes that this has been particularly evident in Western Australia in recent

¹⁵⁵ The term "corrections fatigue" has been coined to capture the range of stressors and types of exposure that operate in corrections settings. (Denhof, M., Spinaris, C., and Morton, G., *Occupational Stressors in Corrections Organizations: Types, Effects and Solutions*, Washington D.C., United States Department of Justice (National Institute of Corrections), 2014.

¹⁵⁶ In Section 4.4.5, the ERA references material from a variety of sources linking cost and aspects of workplace culture, including publications from the Australian Public Service Commission, Victorian Public Sector Commission, Royal Australasian College of Physicians, and Journal of Management Studies.

years, where there has been strong competition for skilled labour. However, it is questionable whether the example of the aged care sector provided by Andrew *et al* provides a useful comparison, due to significant differences between skills and conditions between the aged care and corrections sector. The ERA notes that more comparable professionals, such as police officers and firefighters, have salaries roughly in line with those of prison officers.¹⁵⁷ Hence, it is difficult to demonstrate that low salaries are currently a significant contributor to workforce instability in the Western Australian prison system.

Human resource management

As the CPSU/CSA noted, the Draft Report did not discuss the Department's human resources practices at length. In taking this approach, the ERA intended to provide a more strategic view of changes that would benefit the Department, rather than instruction as to how to perform its administration. The ERA notes that the Department appears to have had difficulty in achieving good practice in human resource management, including:

- planning for redundancies offered under the Government's 2014 voluntary redundancy scheme;¹⁵⁸
- retaining staff (including senior management); and
- providing sufficient staff for key operational areas such as data and financial management.

The ERA agrees with the CPSU/CSA's comment that the Department has been in a 'state of flux' for a prolonged period, and that this has posed significant challenges for staff and hindered reform efforts. Problems with staff retention have had a negative impact on the Department's efficiency. The ERA notes that, following the reforms initiated in 2013 (and the earlier disaggregation of the Department of Justice as discussed in Section 4.5) there has been a lack of consistent senior management in many teams.

Resistance to reforms

The ERA welcomes the CPSU/CSA's statement that its membership support reform efforts in the Department. Reservations expressed by the ERA about resistance to reforms are applicable across all levels of the organisation and are not intended to imply that the problems exist only at an officer level. The ERA has also observed that such resistance makes it difficult for staff who *are* committed to reform to undertake their work.

The ERA acknowledges WAPOU's concern that a limited number of examples were provided to illustrate cultural issues within the Department. The ERA notes that there were three examples provided, including staff resistance to the introduction of the Department of Treasury's new prison population model. These examples are intended to provide readers

¹⁵⁷ The average annual salary figure for aged-care professionals is \$45,656, compared to the average annual salary of a prison officer of \$68,536. The Department of Corrective Services cites an even higher average annual salary range of \$70,777 to \$82,687 before superannuation. In practice, Western Australian prison officers can earn significantly more, with the addition of overtime. Data provided by the Department of Corrective Services indicates that, in 2013-14, the average prison officer earned an additional \$14,383 from overtime. Police officers and firefighters, have average annual salaries of \$76,440 and \$80,912 respectively. (Average salary figures from *myfuture*, a joint initiative of the Australian Government and State and Territory Governments based on Australian Bureau of Statistics data, available at <http://myfuture.edu.au> (accessed 10 September 2015); Department of Corrective Services employment information, accessed 10 September 2015. (<https://www.correctiveservices.wa.gov.au/careers/opportunities/prison-officer.aspx>).

¹⁵⁸ For instance, Department staff informed the ERA that in implementing the Government's 2014 voluntary redundancy scheme, redundancies were essentially offered to all staff, with little consideration for operational requirements. (Communication with officers from the Department of Corrective Services.)

with a clearer understanding of what ‘cultural issues’ entail. The examples do not represent a comprehensive list of all issues observed during the undertaking of this Inquiry.¹⁵⁹

In addition, there are range of problems that the ERA has observed, but is not able to comment on in its report, as these matters are the subject of ongoing investigations. These investigations have been highlighted in recent statements from the Commissioner and the Minister for Corrective Services, outlining new ‘loss of confidence’ legislation¹⁶⁰ designed to mitigate corruption within the Department.

Use of overtime and workers’ compensation

The ERA acknowledges that the Draft Report did not provide the full range of reasons why overtime was used by prison officers. In this Final Report, the ERA has included a table illustrating the full list of reasons why overtime was paid to prison officers. This table is provided in Section 4.4.5.¹⁶¹

The ERA agrees with WAPOU’s submission that some industries (including corrections) will inevitably have a higher exposure to workers’ compensation claims, due to the nature of the work involved.¹⁶² The ERA also agrees with WAPOU and Andrew *et al* that there may be a range of factors driving the particularly low rate of workers’ compensation claims at Acacia.

However, the ERA considers that the level of workers’ compensation claims in the Western Australian prison system is high. This issue has also been highlighted by Department staff (including staff with experience of corrections in other States)¹⁶³, the Inspector of Custodial Services¹⁶⁴, and other stakeholders¹⁶⁵. The ERA also notes that in 2013 the Assistant Commissioner for Youth Justice gave evidence that in Western Australia’s juvenile justice system levels of workers’ compensation were ‘ten times the national average’.¹⁶⁶

As a consequence, the ERA considers that the high level of workers’ compensation claims in the Western Australian prisons system is a genuine issue, and cannot be dismissed as a natural consequence of prison work.

¹⁵⁹ Such issues have also been raised by other independent observers, such as the Inspector of Custodial Services. (Office of the Inspector of Custodial Services, *Management, Staffing and Amalgamation Review Paper: Banksia Hill Directed Review*, Perth, Government of Western Australia, 2013.)

¹⁶⁰ This legislation requires prison officers who have lost the confidence of the Commissioner to respond to allegations of misconduct within 21 days.

¹⁶¹ The figures do not break down the amount of overtime attributed to personal leave further. However, the ERA notes that the figures for personal leave do not include other forms of leave such as annual leave, purchased leave, flexi leave, long service leave, parental leave, military leave, leave without pay, or compassionate leave. Overtime resulting from these forms of leave is reported separately.

¹⁶² Safe Work Australia, *The incidence of accepted workers’ compensation claims for mental stress in Australia*, Canberra, Government of Australia, 2013.

¹⁶³ Meeting with the Department of Corrective Services, 5 August 2015.

¹⁶⁴ Communications with the Inspector of Custodial Services; Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bunbury Regional Prison*, Perth, Government of Western Australia, 2011; Office of the Inspector of Custodial Services, *Management, Staffing and Amalgamation Review Paper: Banksia Hill Directed Review*, Perth, Government of Western Australia, 2013.

¹⁶⁵; Parliament of Western Australia, Legislative Assembly, *Debates*, 21 August 2013, p.368b-382b.); Parliament of Western Australia, Legislative Assembly, *Debates*, 26 March 2015, p.2332.; Deaths in Custody Watch (WA), ‘Jails cost \$40k a day extra’, <http://www.deathsincustody.org.au/jails-cost-40k-day-extra> (accessed 10 September 2015).

¹⁶⁶ R. Spooner, ‘WA juvenile criminals ‘violent’, ‘hard to manage’’, *WA Today*, 18 April 2013, quoting court statements from Brian Laurence, Assistant Commissioner for Youth Justice, made on 17 April 2013.

4.2.5 Rates of recidivism

The CPSU/CSA and Dr Toner note that the ERA does not outline the factors that affect recidivism (and hence the efficiency and performance of the prison system), such as age, indigeneity, and criminal history.

Dr Toner notes the limitations of recidivism as a measure of rehabilitation as the ERA has observed that the fall in recidivism between 2008-09 and 2012-13 is not evidence of good performance by the Department.

Dr Toner considers that the ERA has selectively quoted comments made by the Commissioner about the causes of recidivism. In particular, Dr Toner states the quotes used by the ERA, in the absence of further context, give the impression that the Department has no idea what is behind the trend, and suggest that the Department is not investigating further.

4.2.5.1 ERA response

The ERA recognises that recidivism is driven by a wide variety of social, economic, and demographic factors and that it is necessary to both understand and respond to these factors when addressing rates of recidivism. These factors do add a level of complexity when using recidivism as a measure of the Department's performance. However, the ERA considers that high quality data collection and analysis will allow the Department to investigate the many factors that affect rates of recidivism, and develop a stronger working understanding of the ways in which recidivism is affected by those factors that are within the Department's control.

This view is supported by the comments from the Commissioner of the Department of Corrective Services (quoted in Section 4.4.6) explaining that the reasons for a recent fall in recidivism in Western Australia are unclear. In this statement, the Commissioner notes that this fall is not necessarily a consequence of the Department's activities, and that 'a robust framework of reliable data collection and monitoring, along with independent evaluation' will be needed to understand the trend. The ERA agrees with this statement, and discusses ways to improve data collection, monitoring, and evaluation in Chapter 7.

In light of these comments from the Commissioner, and discussions with Department staff, the ERA considers that, at present, the Department does not fully understand why recidivism has fallen. However, in highlighting this issue, the ERA also discusses some of the ways in which the Department is currently working towards a better understanding of recidivism trends. Section 7.2.3 provides an extensive discussion of the prison population modelling being undertaken by the Department of Treasury to assist the Department of Corrective Services in this regard. Chapter 7 also notes the strengths of the Department's Total Offender Management System in collecting relevant data, and recent improvements in linking the Department's data to community corrections, police, and court systems.

4.2.6 Department's reform program

Dr Toner submits that the ERA notes, but does not comment further on the Department's reform program. Dr Toner considers that if the ERA had adopted a balanced approach to public policy, it would have reflected on the Department's actions and considered the extent to which they are capable of meeting the type and rate of improvement it wants from the system.

4.2.6.1 *ERA response*

In establishing the Terms of Reference for this Inquiry, it was acknowledged that the Department of Corrective Services was the subject of several concurrent reform processes. It was expected by the Department and the Treasurer that the ERA would be aware of these other reform processes, but that the ERA would conduct its own examination of the prison system, independent of the findings and recommendations of these other processes.

Reflecting this, the intent of the Inquiry has been to provide independent feedback of the Department's performance at this point in time, and on potential improvements. In order to meet this objective, the ERA has been mindful that its role is not to act as an advocate for the Department's current reform strategy, nor to speculate as to whether the Department will successfully implement planned reforms. Rather, the ERA has sought to provide an independent assessment to complement the work currently underway, and to inform future policy decisions.

4.3 Importance of good governance

Governance refers to the processes followed when making and implementing decisions, in addition to the broader organisational structure within which these decisions are made. Governance provides the link between establishing performance frameworks, and actually using those performance frameworks to help an organisation achieve its objectives.

Good governance should establish processes that lead to optimal decisions and outcomes for the wider community, including efficient and responsible use of Government resources. These arrangements support an organisation in achieving its objectives, and limit its exposure to a variety of risks (for instance, financial risks, the consequences of failing to meet objectives, or the risk of corruption within the organisation).

Good governance arrangements increase the likelihood and degree to which an agency will deliver on its objectives, and meet its intended purpose. For example:

- clearly defined roles and responsibilities allow decision-makers to be confident in providing appropriate advice and in exercising effective leadership;
- transparency and accountability ensures that the agency is answerable for meeting its objectives, making efficient and effective use of its resources, and making ethical decisions; and
- participatory processes provide the agency with feedback that allows it to make more informed decisions, and promote community confidence in the agency's integrity.

Good governance arrangements allow an agency to promptly identify and address any issues or risks that arise. For instance:

- clear relationships between the agency, independent overseers, and Government assign responsibility for investigating potential problems and proposing solutions;
- prompt identification, disclosure, and mitigation of risks helps ensure that these can be addressed before they cause a problem for the agency; and
- flexible and responsive governance arrangements reduce the risk that the agency may no longer be able to meet its objectives in the face of changing circumstances.

A well governed prison system identifies the critical issues and objectives at hand, and acts to address them as directly as possible. The means to do this vary from jurisdiction to jurisdiction based on many factors, including the cultural, social, and economic contexts in which the system operates.

4.4 Issues in Western Australian prison system

4.4.1 Lack of role clarity

The power to make decisions critical to the performance of individual prisons are divided between the Department, the Superintendent and WAPOU.¹⁶⁷ The ERA has observed a significant level of uncertainty and overlap in the public prison system about the respective roles and responsibilities of the head office of the Department, prison Superintendents and WAPOU.

In particular, the ERA observes a degree of informality in decision-making that permits changes without appropriate analysis and reallocation of resources. It is difficult to hold Superintendents to account for the management of prisons, when their performance is measured against decisions that are effectively made by head office.

The ERA is not suggesting that Superintendents should be accountable for all aspects of prison performance. However, there needs to be a clear understanding between the Department and Superintendents about aspects of prison performance that Superintendents have the ability to influence and the expected performance standards.

Similarly, there is a lack of definition around the responsibilities and decision-making powers of Superintendents as they relate to the powers of prison officer representatives and advocates, in the form of WAPOU. The ERA observes that WAPOU has substantial influence over managerial aspects of prisons that would fall outside the scope of union involvement in other sectors.

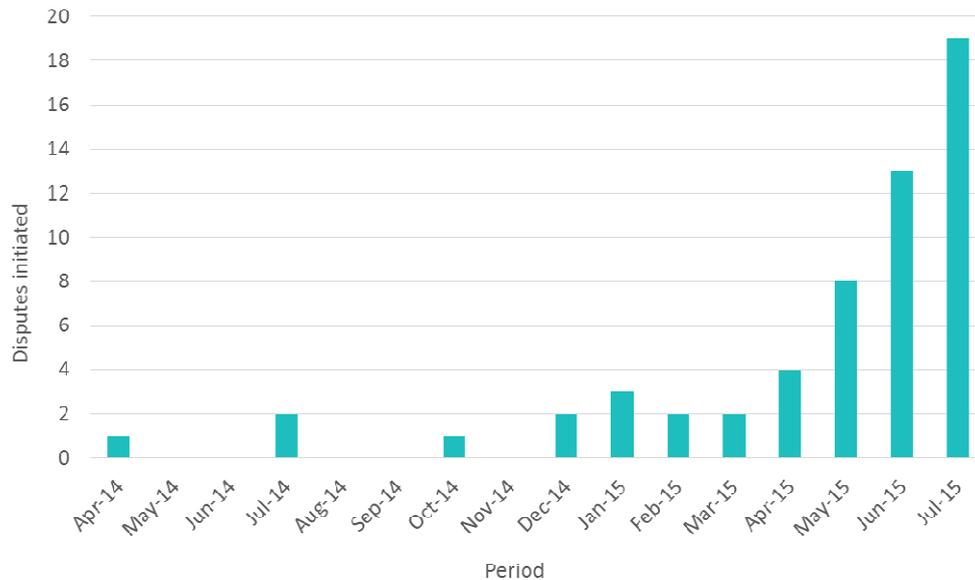
This role is formalised in the Enterprise Agreement. Section 173 of the Enterprise Agreement requires the Department to notify prison officers and their Union of any changes that are likely to have “significant effects” on officers, including changes to: the size and composition of the workforce; skill requirements; job or promotion opportunities; tenure; hours of work; transfers of officers; and restructuring of jobs.

WAPOU can invoke a “Status Quo” if prison officers object to a change that has a significant effect, which means that the working practices, procedures or conditions cannot change until the dispute is resolved. This creates a situation where Superintendents have to share their management role with WAPOU and negotiate operational changes.

The Department has maintained a formal register of these disputes since April 2014. As shown in Figure 19, there has been a substantial increase in the number of disputes initiated since May 2015.¹⁶⁸

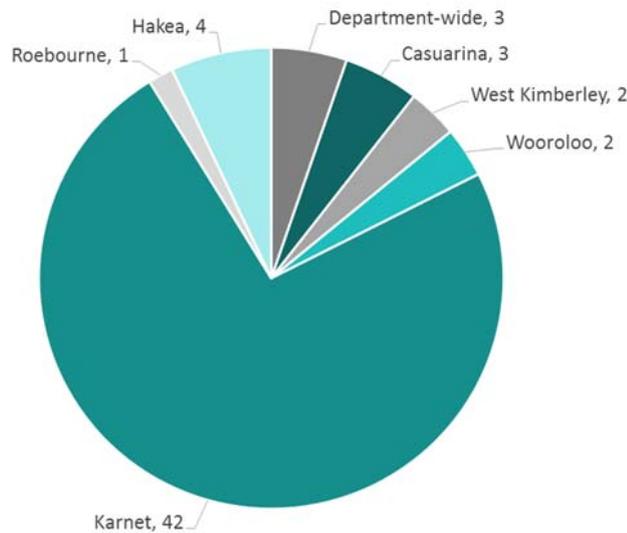
¹⁶⁷ This is not the case for private prisons. Private prisons largely operate as an integrated unit, taking responsibility for most aspects of prison services (with the key exceptions of maintenance contract and some services provided by the not-for-profit sector within prisons).

¹⁶⁸ Register of management dispute notices arising under the *Department of Corrective Services Prison Officers’ Enterprise Agreement 2013* provided by the Department of Corrective Services on 28 August 2015.

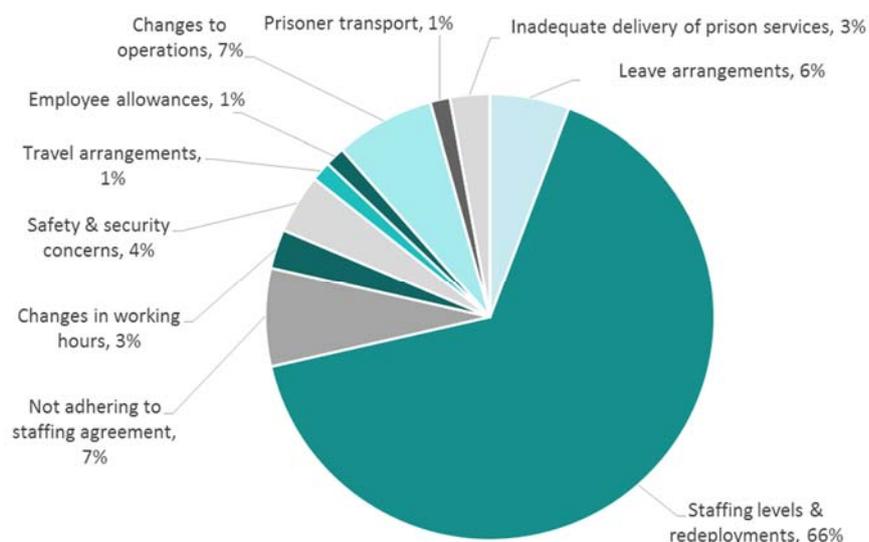
Figure 19 Number of formal disputes initiated by WAPOU by month (April 2014 to July 2015)

Source: Department of Corrective Services.

Figure 20 provides a breakdown of the facility to which these disputes relate, and Figure 21 general nature of the disputes. They show that nearly three-quarters of all disputes over the period related to the Karnet Prison Farm facility, and that around two-thirds of disputes were about staffing levels and redeployment of staff.

Figure 20 Disputes by prison (April 2014 to July 2015)

Source: Data provided by the Department of Corrective Services.

Figure 21 Disputes by major issue (April 2014 to July 2015)

Source: Department of Corrective Services.

As detailed in Section 4.2.3, the ERA recognises the role of this dispute process in maintaining safe working conditions. However, the current application of the process appears to be questionable at times. In particular, the ERA questions whether increasing numbers of disputes in recent months accurately reflect a major increase in risk to prison officers over the same period.

Similarly, it is difficult to conceive that the large number of disputes originating at Karnet (a minimum-security facility) indicates that it is a far riskier workplace than other similar prisons. The ERA notes that, in contrast to the 42 disputes at Karnet, there have only been two other disputes at any of the State's other minimum-security facilities (both of these being at Wooroloo).

Ideally, the Commissioner of the Department and individual Superintendents would reach an agreement on:

- the type, quality and amount of services that the prison is expected to deliver;
- the funding and staffing required to efficiently deliver those services; and
- a process for varying funding and staffing should service level requirements change.

It would then be the responsibility of the Superintendent to manage funding and staffing to achieve the agreed service levels. The Superintendent would be accountable if they were unable to meet the agreed service levels on budget. Superintendents would consult with local representatives of WAPOU on matters affecting the rights and safety of prison officers, but WAPOU would not have a decision-making role.

However, the ERA has observed that this ideal does not occur in practice, for the following reasons:

- *Prison budgets* – The Department does not have detailed information on the current cost of delivering specific services in individual prisons or the efficient cost of delivering those services. Consequently, funding to prisons is not allocated based on an assessment of the quantity and standard of services that each prison is expected to deliver in the coming year. Further, budgets are not revised when the size or scope of the task changes. The ERA recognises that demand for funding will always exceed what is available. However, there has been little attempt by the Department to develop a rigorous understanding of the efficient cost of delivering prison services and to fund prisons accordingly.

- *Staffing* – The ERA observes that Superintendents have somewhat limited influence on the composition of staffing in their prisons (that is, the ratio of public sector staff to prison officers) or on the appointment of specific individuals. Superintendents may prepare a business case for the Department to consider if they require an additional staff member or wish to change the composition of their staffing. However, Superintendents must also negotiate any changes to the workforce that will have a significant effect on prison officers with WAPOU.
- *Prison population* – The Department is responsible for forecasting the prison population and allocating prisoners to individual prisons. Superintendents are required to accept any prisoners they are allocated. The ERA considers this to be reasonable. However, there should be a process in place for adjusting the budgets of prisons when the actual population of a prison (upon which funding was based) varies substantially from the forecast population.
- *Policies and protocols* – Decisions made by the Department to change policies and protocols can have a significant influence on the cost and number of staff required to deliver prison services. An example is the Department’s decision that all prisoners would need to be “shackled” to two prison officers when leaving a prison for official reasons (discussed in more detail in Box 2). The ERA observes that Superintendents are not always consulted on these changes (despite their expertise on prison management) and that the Department does not make compensating adjustments to prison resourcing. It is the responsibility of Superintendents to make a business case to the Department for any adjustment to prison resources.

Box 2 - “Double shackling” of prisoners

The Department decided that all prisoners would need to be “shackled” to two prison officers when leaving a prison for official reasons (for example, to attend a hospital appointment). This has added significant additional costs to prisons, which has not been funded.

It has also resulted in some perverse outcomes. For example, some minimum-security prisoners have permission to leave prisons to work in the community during the day. They are allowed to drive their own car and must return to prison upon completion of their workday. However, these same individuals must be shackled to two prison officers if they leave prison to attend a medical appointment.

4.4.2 *Lack of accountability*

Accountability ensures that an agency is answerable for meeting its objectives, making efficient and effective use of its resources, and making ethical decisions. Accountability establishes the standards to which agencies are expected to perform and the consequences if standards are not met.

The uncertainty around roles and responsibilities between the Department and Superintendents makes it difficult to establish accountability for specific outcomes because it is not clear who is responsible for the outcome. This lack of clarity serves to diminish accountability between various parties in the prison system.

There do not appear to be significant consequences for Superintendents of public prisons if they do not meet performance targets. For example, the ERA understands that, historically, there have been few consequences when Superintendents exceeded the budgets for their prisons. The ERA understands that currently only one prison is operating on budget. However, the ERA has not been able to confirm this because it has not been provided with the budget and actual outcomes for prisons (which it requested).

The ERA notes that Superintendents are permanent appointees. Superintendents are generally Level 9 or Class 1 public sector employees. The ERA understands that there is discretion to appoint employees at these levels to either permanent or fixed term contracts. Placing Superintendents on fixed term contracts will allow for more effective performance management of any Superintendents that are not performing to the required standard.

The ERA notes that limited accountability is imposed on the Department. The Department is able to make decisions that affect the delivery of prison services without appropriate analysis and reallocation of resources. The ERA's recommendation to introduce Service Level Agreements would seek to address this issue by formalising decision-making processes (refer to Chapter 5 for more detail).

The ERA also notes that there is no accountability placed on WAPOU for its influence on the prison system. WAPOU has a *de facto* management role in the prison system, allowing it to have a significant influence on the cost of the public prison system. However, WAPOU is only accountable to its members, not to the Minister or the Commissioner. Reflecting this, the role of WAPOU would ideally be limited to representing the interests of its members and not extend to making decisions on the management of the prison system.

In contrast, private prisons are held to higher standards of accountability and transparency than public prisons. The contract between the Department and Serco for the management of Acacia and Wandoo establishes clear expectations on the standard of services to be delivered by Serco.

The contract also establishes a range of financial incentives. Both the Acacia and Wandoo contracts contain performance-linked fees for the achievement of Key Performance Indicators. Serco receives its full fixed fee if it meets specified indicators, while its fee is reduced if it fails to meet any of its indicators. Most importantly, poor performance by a private provider can result in a loss of the contract and reputational damage in other jurisdictions.

4.4.3 Lack of transparency

Prison systems are not easily observable by the broader public, making it difficult for stakeholders outside the system to draw conclusions about a prison's standards and performance.

Greater transparency and regular reporting allows for a more informed public debate about the performance of individual prisons, and the system as a whole. It also serves to foster greater accountability for performance, both for the Department and other prison operators.

Improved transparency can serve to complement the work of independent oversight bodies such as the Office of the Inspector of Custodial Services. The ERA considers that this is important, as it ensures that holding the system to account does not rely on trust in, and the effectiveness of, a single organisation. As such, transparency can function as a secondary, 'backup' mechanism to ensure ongoing accountability.

The ERA has observed that there is a particular lack of transparency in relation to the performance and operations of Western Australia's public prisons, in comparison to the information and documents released about private prisons.

Information about the performance of private prisons in Western Australia is relatively transparent. The contracts between the Department and private prison providers are required to be publicly available and the Department is required to report on the performance of each private prison operator against their contract. However, the equivalent requirements are not imposed on public prisons.

The ERA has experienced difficulties acquiring robust information about the performance of public prisons in conducting this Inquiry. If the ERA, which has the authority to compel

organisations to provide requested information, has had difficulty gathering the necessary information, the prospect that other stakeholders will be able to access information is remote.

More generally, the type, format, and frequency of data published by the Department is broadly similar to that released in other States and Territories. While this may initially appear to be positive, the ERA notes that no Australian corrective services agency approaches best practice in this field, and that all operate at a standard significantly lower than that seen in comparable corrective services agencies internationally.

This is a missed opportunity for the Western Australian prison system. Greater transparency can also serve to encourage innovation, new service delivery options, and investment. For example, community organisations and businesses are more likely to enter the market and develop service offerings when a sector is transparent, and there is sufficient information available to assess opportunities. Lack of good data and information acts as a barrier, as in its absence, it is difficult to assess whether new ideas may be viable.

4.4.4 *General inadequacies in planning, processes, and information systems*

In order to perform well, the Western Australian prison system must be supported by good planning, processes, and use of information. These practices underpin sound evidence based decision-making. They also determine the capacity of the Department to measure outcomes and to be transparent and accountable for those outcomes.

However, the Department faces a number of longstanding issues with its planning and processes, and in the way in which it collects and uses information. These issues may compromise the ability of the Department to perform efficiently and meet its objectives, both now and in the future.

Some of these issues are evident across all areas of the Department's activities. These include problems with transparency and appropriate access to information; and difficulties in collaborating effectively with key stakeholders.

Further, the ERA considers that the Department does not currently have a robust capacity to quantify the likely effects of proposed policy changes, making it difficult to provide high quality advice to the Minister and Cabinet (as discussed in further detail in Chapter 7). This capacity is very important in establishing a prison system that is resilient to policy change, and one that can provide strong, evidence based advice to Government. These process issues result in many of the Department's decisions – across all levels of operations, from assigning an offender to a program up to building a new prison – not being based on sound evidence.

The Department is aware of these problems, and is in the early stages of developing and implementing a reform program to address them. The ERA is supportive of the aims of the reform program.

4.4.5 *Cultural issues in the Department of Corrective Services and prisons*

The ERA considers that the Department faces some workplace culture issues. This concern is supported by the ERA's own observations, information received in discussions with stakeholders, and quantitative sources such as overtime and workers' compensation statistics.

In particular, the ERA has observed that there is a resistance to change and a reliance on entitlements among some staff. This creates a barrier to reform and the introduction of more effective working arrangements.

The ERA has not been able to assess how widespread the issues of workplace culture are within the Department. The ERA presents some indications of cultural problems in the following sections.

Issues of culture are of relevance to this Inquiry because workplace culture does have a direct impact on performance.^{169,170}

4.4.5.1 General indicators of poor workplace culture

The Department exhibits some common indicators of poor workplace culture. The Australian Public Service Commission has developed a comprehensive list of indicators associated with agencies at risk of poor performance, a range of which focus specifically on workplace culture.¹⁷¹

The ERA has observed several of these indicators in the Department, including conflicting internal cultures and directions (for instance, between head office staff and prison staff), low levels of staff empowerment and trust (again, observed between head office staff and prison staff), and perceptions by stakeholders that the agency's culture is insular and inwardly-focused.

Similarly, the Department does not display some indicators of effective workplace culture, such as information sharing and emphasis on collaboration and engagement with other agencies and relevant stakeholders (as discussed in Chapter 7).¹⁷²

4.4.5.2 Use of employee entitlements

The current use of employee entitlements (such as overtime, personal leave, and workers' compensation) in prisons appears to be high.

The Enterprise Agreement establishes that prison officers may be required to work overtime. The majority of overtime is paid at time-and-a-half the officer's hourly-annualised rate of pay. Overtime undertaken because of a Declared Major Emergency, Natural Disaster, or medical/hospital escorts is paid at double-time in accordance with Section 21 of the Enterprise Agreement. The ERA acknowledges that overtime has a role in the good management of the prison system, and that overtime payments compensate staff for their time and effort outside their normal course of work.

Information provided to the ERA by the Department suggests that there is a high volume of overtime paid to prison officers. In 2013-14, overtime accounted for around \$28 million (or 14 per cent) of the total salary expense for the prison system of \$200 million.¹⁷³

¹⁶⁹ Australian Public Service Commission, *Agency health-Monitoring agency health and improving performance*, Canberra, Government of Australia, 2012.

¹⁷⁰ Gotwon, G. G., & Ditomaso, N., 'Predicting corporate performance from organizational culture', *Journal of Management Studies*, vol. 29, 1992, p. 783.

¹⁷¹ Australian Public Service Commission, *Agency health-Monitoring agency health and improving performance*, Canberra, Government of Australia, 2012.

¹⁷² Australian Public Service Commission, *Agency health-Monitoring agency health and improving performance*, Canberra, Government of Australia, 2012.

¹⁷³ Data provided by the Department of Corrective Services on request.

In 2013-14, the main reason for overtime was to cover prison officers on personal leave, accounting for 30 per cent of overtime expense.¹⁷⁴ Covering prison officers on workers' compensation claims accounted for 10 per cent of overtime expense. Table 13 provides the reasons for overtime and their contribution to overtime costs in 2013-14.

Table 13 Reasons for overtime (2013-14)

Reason for overtime	Percentage of total overtime taken ¹⁷⁵
Personal leave	32.23%
Peak muster	16.63%
Workers' compensation	10.87%
Hospital escort	5.83%
Position vacant	5.10%
Annual leave	4.56%
Secondment	4.04%
Training	2.83%
Purchased leave	2.70%
Flex leave	2.60%
Long service leave	2.36%
Escorts (other than hospital)	1.52%
Special projects	1.41%
Parental leave	0.56%
Security	0.33%
Union Business	0.21%
Military leave	0.18%
Leave without pay	0.15%
Declared emergency	0.07%
Emergency	0.05%
Compassionate leave	0.02%
Trade Union	0.02%
Other	5.74%

Source: Data provided by the Department of Corrective Services on request.

In addition to its effect on cost, high use of staff personal leave and workers' compensation may be an indicator of poor workplace culture¹⁷⁶ and so can affect the operations of prisons. High numbers of prison officers on leave has been shown to cause problems in prisons in the past. For example, on 2 January 2015, Casuarina prison had to operate with a shortfall of more than 35 prison officers after all available off duty officers were called in to cover vacant positions.¹⁷⁷

High levels of workers' compensation claims may also be an indicator (as well as a cost) of poor workplace culture¹⁷⁸. Claim numbers, for both Western Australia's adult and youth justice systems, are high. In March 2015, the Minister for Corrective Services stated that the percentage of prison officers in public prisons on current workers' compensation claims

¹⁷⁴ Data provided by the Department of Corrective Services on request.

¹⁷⁵ These figures do not include the Composite Allowance paid in accordance with Section 38 of the Prison Officers' Enterprise Agreement 2013. In 2013-14 a composite allowance of \$4.22 per hour was paid in addition to the overtime rate for all overtime shifts excluding overtime resulting from Declared Major Emergency, Natural Disaster or medical/hospital escorts.

¹⁷⁶ Victorian Public Sector Commission, *Sick Leave in the Victorian Public Sector Research Report*, Melbourne, Government of Victoria, 2015, p. 32, and Victorian Public Sector Commission, *Organisational Culture*, Melbourne, Government of Victoria, 2015, p. 11.

¹⁷⁷ Western Australia Prison Officers' Union, *Submission to the Economic Regulation Authority - Inquiry into the Efficiency and Performance of Western Australian Prisons, Issues Paper*, 2015, p. 8.

¹⁷⁸ Royal Australasian College of Physicians, *Submission to the Safety, Rehabilitation and Compensation Review Act*, 2012, Attachment A p. 11; and Royal Australasian College of Physicians, *Improving workforce health and workplace productivity: a virtuous circle*, 2013, p. 10.

in the public system were ‘down to 16 per cent’.¹⁷⁹ He noted that the rate of prison officers on current workers’ compensation claims in Western Australia’s private prisons was one per cent.

Similarly, in 2013, the Assistant Commissioner for Youth Justice gave evidence that, of 199 staff in the juvenile justice system, 60 were on workers’ compensation – a figure he noted as ‘ten times the national average’.¹⁸⁰

Information on workers’ compensation claims as at 31 March 2015 provided by the Department also notes that ‘[that Department] has not rejected any claims’.¹⁸¹ The ERA notes that, while it is important to treat all claims as serious matters and to compensate employees as appropriate, it would be inadvisable to adopt a practice of accepting all workers’ compensation claims as a matter of course.

Given the link between workplace culture and workplace productivity, these comments and indicators suggest there is an opportunity to improve the performance of Western Australia’s prison system by addressing cultural problems.

4.4.5.3 *Resistance to change*

Some resistance to change is apparent amongst staff working in the Department, both centrally, and in prison facilities. Staff display some reluctance to move away from practices that have been long applied, even when it is clearly demonstrated that existing practices are ineffective, and more appropriate alternatives are available.

For example, an officer in the Department advised the ERA that the Department had sought to make better use of prison infrastructure (for example, industrial kitchens) to accommodate growth in prisoner numbers. One option identified by the Department was to operate kitchen infrastructure on two separate shifts. However, the officer advised that this was prevented by prison officers who objected to changes in rosters.

Similarly, resistance to change makes it difficult to implement reforms in the Department’s head office. For example, the ERA understands that a small number of staff in the Department are currently only working strictly to rules and hours expected of them to reduce output and efficiency.

Another example is the reluctance by some staff in the Department to adopt the projection model for the prison population that has been developed by the Department of Treasury. As explained in Chapter 7 of this Report, the ERA’s assessment is that the Department of Treasury projection model is better able to inform strategic decisions and policy than the model used by the Department of Corrective Services and the two models should be used in combination.

4.4.6 *Effect of governance issues on the performance of the prison system*

The ERA considers that the governance problems identified in the previous sections necessarily flow into performance measures of the prison system, such as rates of recidivism, cost of prison services, and prison utilisation rates.

¹⁷⁹ He further stated the same figure was ‘down to 22 per cent’ for youth custodial workers. (Parliament of Western Australia, Legislative Assembly, *Debates*, 26 March 2015, p. 2332.)

¹⁸⁰ R. Spooner, ‘WA juvenile criminals ‘violent’, ‘hard to manage’’, *WA Today*, 18 April 2013, quoting court statements from Brian Laurence, Assistant Commissioner for Youth Justice, made on 17 April 2013.

¹⁸¹ Department of Corrective Services, *Current claims as at 31/3/2015*, Perth, Government of Western Australia, 2015.

4.4.6.1 Rates of recidivism

Addressing issues in the Department's management of rehabilitation may yield significant improvements in rehabilitation outcomes. The Department's approach to allocating prisoners to rehabilitation programs is poor and unsophisticated. Also, the Department does not adequately review the effectiveness of its rehabilitation programs, either for individual prisoners or at a whole-of-system level. The Department is aware of these issues and is progressing reforms.

The Department maintains a multi-year spreadsheet of rehabilitation programs scheduled in prisons over the coming five years. Prisoners are allocated to the programs they are required to complete on a "first come, first served" basis. Little regard is given to when a prisoner is scheduled to be released or whether they reside in the prison in which the program is being run. This means that a prisoner may reach their parole period or the end of their sentence without having their rehabilitation needs met.

Compounding this issue, the Department does not prioritise the allocation of prisoners to programs according to the severity of their needs. The Department acknowledges that it has a tendency to "over assess" the rehabilitation needs of prisoners (that is, it identifies a rehabilitation need in a prisoner even if the need is marginal).

This is a problem because, to use its resources efficiently, the Department should be ensuring that programs are received by those who need them most, and will benefit to the greatest degree. For example, incorrectly assessing a non-violent offender and allocating them to a program for high risk, violent offenders will not only be of little use to that offender, but will also delay or prevent a more suitable prisoner from taking a place in the program.

Finally, the Department currently does not have adequate information, processes and analysis to assess the effectiveness of its rehabilitation programs. This is a problem that has been acknowledged by the Commissioner of the Department:

"Recidivism rates in Western Australia have bucked national trends and dropped significantly over the last five years. I would like to think that this is because of the hard work that the Department of Corrective Services has undertaken to rehabilitate the men and women, and young people, who have come under its responsibility. In truth, however, I am not sure that this is the case. The reasons why recidivism rates are reducing among both adults and young people in Western Australia are unclear. There is no doubt that some of what we are doing is highly effective, but without reliable evidence to the contrary, I must assume that some of the measures we currently undertake in an effort to reduce recidivism do not work. To find out for certain will require a robust framework of reliable data collection and monitoring, along with independent evaluation."¹⁸²

4.4.6.2 Cost of prison services

The cost of housing a prisoner in Western Australia is high relative to most other States and Territories on a per prisoner per day basis. In 2013-14, it cost an average of \$352 per day to house a prisoner in a Western Australian prison, 20 per cent higher than the Australian average.¹⁸³

The ERA considers that this higher cost is, at least to an extent, driven by factors that are specific to Western Australia, making it difficult to assess the relative efficiency of the State's prison system relative to other jurisdictions. As discussed in Section 3.6.4.4, these factors may include the State's population distribution, Western Australian and regional economic

¹⁸² Department of Corrective Services, *Recidivism trends in Western Australia with comparisons to national trends*, Perth, Government of Western Australia, 2014, p. 2.

¹⁸³ Productivity Commission, *Report on Government Services 2015*, Government of Australia, 2015, Table 8A.7.

factors, and short-stay prisoner arrangements specific to the Western Australian justice system.

However, the ERA considers that the costs of providing prison services could be substantially reduced (or the quality of prison services substantially improved), by addressing issues with the governance arrangements, systems and workforce issues of the prison system. Specific issues that affect the cost (and quality) of prison services in Western Australia include:

- *A lack of information* – Good information is critical to measuring and improving performance. However, the Department does not have detailed information on the current cost delivering specific services in individual prisons or the efficient cost of delivering those services. The ERA considers that understanding costs is a foundation step towards reducing costs.
- *A lack of accountability for expenditure* – The ERA understands that, historically, there have been few consequences when Superintendents exceeded the budgets for their prisons. The ERA understands that currently only one prison is on budget and managing overtime expense. However, the ERA has not been able to confirm this because it has not been provided with the budget and actual outcomes for prisons (which it requested).
- *Poor planning and allocation of resources* – The Department does not currently plan and allocate services efficiently, with the consequence that service delivery is “highly reactive” to changes in circumstances. A key example of this has been the delivery of health services within prisons, which does not appear to be based on an understanding of the aggregate health needs of the prison population.
- *Poor financial management systems and controls* – The Office of the Auditor General has raised significant concerns about the manner in which the Department manages its financial and physical resources. For example, the Department’s systems and processes have led to significant overpayments of salaries and leave entitlements to staff because it has not provided the Department of the Attorney General (which provides it with payroll services) with timely documentation when employees have left the organisation. In a recent audit, the Office of the Auditor General noted that over \$550,000 of historical overpayments have not yet been collected.¹⁸⁴

It will be necessary for the Department to address these issues in order to reduce the cost of providing public prisons to more efficient levels.

4.4.6.3 *Prison utilisation rates*

Throughout this Inquiry, stakeholders have expressed concern that the Western Australian prison system is crowded. Additionally, the Inspector of Custodial Services has consistently identified crowding as an issue in most prisons in Western Australia.¹⁸⁵

The ERA notes that it is usually desirable for infrastructure to be used at, or close to, its full capacity (that is, a high utilisation rate). However, when prison infrastructure has a very high utilisation rate it can result in occupational health and safety issues for prison officers

¹⁸⁴ Correspondence between the Office of the Auditor General and the Department of Corrective Services, ‘Findings identified during the interim audit’, and ‘Findings identified during the final audit’ for the periods of audit ending 30 June 2009, 2010, 2011, 2012, 2013, and 2014.

¹⁸⁵ Office of the Inspector of Custodial Services, *2013-14 Annual Report*, Perth, Government of Western Australia, 2014, p. 8.

and prisoners and limit the access of prisoners to programs and services.¹⁸⁶ This reduces prisoner rehabilitation opportunities and is therefore likely to increase recidivism rates.

The extent of crowding in prisons can be assessed through analysis of utilisation rates. The utilisation rate of a prison is the prison population divided by the capacity of the prison.

Assessing the utilisation rates of individual prisons is complicated by the fact that there are alternative ways of measuring the capacity of prisons: design capacity,¹⁸⁷ operational capacity¹⁸⁸ and total capacity.¹⁸⁹

The Department has changed the measure that it reports in recent times. The Department originally reported against design capacity, before changing to operational capacity, and then, more recently, to reporting total capacity.

The Department has provided the ERA with data on prison utilisation rates for each prison using measures of total capacity and operational capacity. An assessment of prison utilisation rates using the total capacity measure suggests that only one prison (Bandyup) had a utilisation rate of over 100 per cent as at 31 March 2015.¹⁹⁰ However, the ERA considers the total capacity measure to be flawed (for reasons explained in Chapter 6) and is likely to underestimate levels of crowding.

An assessment of prison utilisation rates using the operational capacity measure indicates that five prisons were being utilised in excess of 100 per cent of operational capacity as at 31 December 2014.¹⁹¹ The ERA considers operational capacity is a more accurate measure of prison capacity than total capacity.

For reasons explained in Section 6.8.1, the ERA considers that the design capacity of a prison is the best measure of prison capacity. The original design capacity of a prison should be amended to reflect expansions in a prison's accommodation infrastructure, provided that expansions are consistent with accepted guidelines. The ERA does not have information on the adjusted design capacity of prisons.

In any event, the ERA considers that it is likely that the prison system is more crowded than it would be, but for issues with governance arrangements, systems and processes in the Western Australian prison system. Primarily these issues relate to insufficient planning and prioritisation of infrastructure to reduce capacity constraints.

- *Limitations of the model for forecasting the prison population* – The Department's current population forecasting model is limited in its ability to provide well-evidenced advice to the Government. This is because the model does not attempt to understand and explain the *reasons* for changes in the prison population.¹⁹² This

¹⁸⁶ New South Wales Inspector of Custodial Services, *Full House: The growth of the inmate population in NSW*, Sydney, Government of New South Wales, 2015, p. 28.

¹⁸⁷ Design capacity includes the number of permanent beds available to the Department of Corrective Services that are consistent with the design capacity of cells. This excludes accommodation used for special purposes (for example, segregation or crisis care) and facilities or sections of facilities that are temporarily out of commission or have been decommissioned. Source: Productivity Commission, *Report on Government Services 2015: Corrective Services Data Quality Information*, Government of Australia, 2015, p. 21.

¹⁸⁸ There is no publicly available definition of operating capacity.

¹⁸⁹ Total capacity refers to the total number of beds, including design capacity and temporary beds. Total capacity includes accommodation used for special purposes. The definition for total capacity was provided by the Department of Corrective Services on request.

¹⁹⁰ This is based on ERA analysis of data provided by the Department of Corrective Services.

¹⁹¹ This is based on ERA analysis of data provided by the Department of Corrective Services.

¹⁹² Department of Treasury, *An Experimental Prisoner Projection Model for Western Australia*, report prepared by N. Riste and K. Sibma, Perth, Government of Western Australia, 2014, p. 12.

limits the ability of the Department to plan and prioritise the infrastructure requirements of the prison estate.

- *Lack of a long-term plan* – The Department does not have an approved long-term plan for the prison estate (although it does have detailed masterplans for individual prisons). The result is that decision-making on prison infrastructure tends to be ad hoc and reactive, rather than contributing towards achievement of an agreed long-term plan.
- *Inadequate focus on the women’s estate* – In recent years, there has been substantial investment in male prison accommodation, but relatively little investment in female prisons, in spite of the rapid growth rate in the number of female prisoners.¹⁹³ Consequently, conditions in the State’s women’s prisons are of a lower standard than those seen in men’s prisons. Low prioritisation of the women’s estate has contributed to high levels of crowding, particularly at Bandyup.
- *Poor prioritisation of capital expenditure* – The ERA considers that there is scope to improve the Department’s prioritisation of investment for capital projects. For example, Bandyup’s new, modern gatehouse sits alongside older infrastructure that has been described as “deteriorated, out dated, and inadequate” by the Office of the Inspector of Custodial Services.¹⁹⁴ Funds used to construct the gatehouse may have been better prioritised to provide accommodation and supporting infrastructure for prisoners.
- *Lack of resources for infrastructure planning* – A lack of staff resources for infrastructure planning hinders the ability of the Department to undertake quality analysis and make informed long-term decisions about what infrastructure needs to be developed, and when.
- *Lack of transparency about prison utilisation rates* – The Department is not transparent in publishing data on prison utilisation rates. The Department has recently recommenced publishing data on the total capacity and populations of prisons. However, this information is not presented in a way that facilitates external scrutiny of prison utilisation rates, as the information is not presented in a single table or location. This reduces pressure on the Department to provide infrastructure to reduce crowding.

4.5 Current reform efforts

The Department is currently undertaking a substantial reform process, aimed at addressing many of the issues raised in the previous sections. Recommendations made by the ERA in this Report overlap with the reform efforts of the Department.

A new Office of Reform was established within the Department in 2013-14, along with major structural changes in the Department. The new structure involved the introduction of two new operational divisions: Adult Justice Services and Youth Justice Services, each headed by a Deputy Commissioner.

The Office of Reform was created to deliver a comprehensive change program within the Department, which has involved revisiting many of the issues raised in the 2005 Mahoney Inquiry into the Management of Offenders in Custody and in the Community in an effort to

¹⁹³ Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bandyup Women’s Prison*, Perth, Government of Western Australia, 2014, p. iv.

¹⁹⁴ Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bandyup Women’s Prison*, Perth, Government of Western Australia, 2014, p. 9.

improve the Department's service delivery (a more comprehensive description of the Mahoney Inquiry can be found in Section 4.6.1).

The Department has outlined its proposed reforms in a general manner in its Strategic Plan 2015-2018 document.¹⁹⁵ During the course of this Inquiry, the ERA has been provided with more detailed explanations of some of these reforms, and has discussed them in the relevant sections of this report.

However, the Department has advised that some of the reforms are still in a draft or Cabinet-in-Confidence stage, and so the ERA has not been able to access further information.

Many of the reforms discussed in the strategic plan related directly to issues covered by the ERA in this report. In particular, the plan highlights the following areas:

- Separating the Department's administrative and financial systems from those of the Department of the Attorney General.
- Improving the Department's approach to managing Human Resources.
- Improving the way the Department manages changes in the prison population.
- Improving the way prison programs are evaluated.
- Seeking new ways to deliver services, and developing benchmarks to measure their success.
- Improving the way the Department's data and records are managed and used in the decision-making process.
- Re-establishing the Department's risk management and auditing processes.
- Developing better working relationships with stakeholders.

The Department has advised the ERA that it has a three to four year timeframe for undertaking these reforms.

4.6 Outcomes of previous Inquiries

The Western Australian prison system has been the subject of several inquiries in recent years. Significant inquiries include the Mahoney Inquiry (2005), "Making our Prisons Work" (2005) and the Financial Management of Prisons (2000).

A review of these past inquiries indicates that many of the issues identified then are still present for a range of reasons. In some cases, problems continue because they are complex, intractable and require a whole-of-government approach to address (for example, high rates of Indigenous incarceration).

In other cases, the Department has elected to adopt alternative reforms to those recommended (for example, the Department implemented Trimester Performance Reports instead of the Service Level Agreements recommended in the 2000 Inquiry).

Finally, the way in which the recommendations were implemented have created significant problems in their own right (for example, the split of the Ministry of Justice into the current Departments of the Attorney-General and Corrective Services arising from the Mahoney Inquiry, as discussed in Section 4.6.1 below).

¹⁹⁵ Department of Corrective Services, *Strategic plan 2015–2018: Creating Value Through Performance*, Perth, Government of Western Australia, 2015.

In the following sections, the ERA outlines some of the findings from these major inquiries that are relevant to this Inquiry.

4.6.1 *The Mahoney Inquiry*

In 2005, in the wake of a number of well-publicised escapes and other incidents, the Government commissioned Hon. Dennis Mahoney AO QC to undertake an independent and extensive review of the prison system, and to make recommendations as to how it could be improved.

The Mahoney Inquiry (full title, the *Inquiry into the Management of Offenders in Custody and in the Community*) was completed in November 2005, and made 148 recommendations. A major outcome stemming from recommendations made in the Report was the splitting in 2006 of the then-Ministry of Justice into the present day Departments of the Attorney-General and Corrective Services.

The recommendations relating to the prison system largely focused on improving planning and resourcing decisions. (For instance, implementation of a periodic assessment of infrastructure needs based on projections of prisoners and other relevant information). A number of other recommendations focused on ways to produce a stable, competent and effective prison workforce, including through more targeted training for prison staff.

The report also outlined a number of recommendations relating to specific demographic groups of the prison population. To deal with the crisis of high Indigenous incarceration, recommendations called for a more culturally-competent approach to justice which is sensitive to the unique aspects and needs of Aboriginal societies. Similar conclusions are drawn regarding the women's estate. The Inquiry acknowledged that female offenders present complex problems. The Inquiry recommended enhancement of women's facilities.

A range of recommendations from the Mahoney report have been implemented in the interim years. However, given the circumstances under which these reforms were undertaken (as outlined in Box 3 below) many of the underlying problems highlighted remain a concern today.

Box 3 - Challenges in implementing the Mahoney Inquiry's Recommendations

The prison system, and hence the then Government, was under intense public scrutiny at the time of the Mahoney Inquiry, due in part to media coverage of escapes. Consequently, a number of recommendations –in particular the splitting of the Department of Justice – were undertaken hastily and, in retrospect, with insufficient preparation.

In February 2006, staff were given 33 working days to establish the new Department of Corrective Services. At the time of the split, there was no executive team in place to take on the running the Department and no program management office to direct the handover.

These difficulties were compounded by a number of other problems, including delays in funding for the split, a whole-of-Government ban on using external consultants, and a lack of the systems and skilled staff needed to operate the Department independently.¹⁹⁶ During the same period, the Government required the Department staff to scope and submit a plan to implement each of the 148 recommendations, along with funding submissions for each.

The Government considered the reform program arising from the Mahoney report to be a decade-long project, but ultimately only provided funding for 22 of the 148 reforms over a period of four years. Further recommendations were to be funded out of the Department's general budget. The Government's newly introduced efficiency dividend was also applied to the Department from the time of its establishment, requiring it to achieve savings.

The ERA considers that the haste, lack of planning, and lack of skilled resourcing around the split of the Department of Justice in 2006 has been a direct contributor to many of the Department's current problems. For example, the rapid transition resulted in no systems being in place to handle the newly formed Department of Corrective Services' financial and administrative processes. This led to the Department of the Attorney General retaining these functions on behalf of the Department. This arrangement has been unsuitable and has hindered the Department's ability to manage its financial position – a situation that is only now being addressed.¹⁹⁷

4.6.2 *Making our Prisons Work: Community Development and Justice Standing Committee*

In 2010, the Community Development and Justice Standing Committee undertook a Parliamentary Inquiry into the efficiency and effectiveness of prisoner education, training and employment strategies.

The Terms of Reference for the Inquiry instructed the Committee to examine and report on in-prison work and education programs, post-release outcomes, the scope for program improvement, and to examine alternative strategies to reducing recidivism in other States and Territories. Findings of the Inquiry were released in two reports.

The interim report, released in June 2010, focussed on the role of prison industries and employment in prison management, and its effect on reintegrating prisoners back into society. The report called for an extension of industrial activity in the prisons through the establishment of commercially viable business-like entities.

The second and final report for this Inquiry discussed prison education programs, post-release support and reintegration strategies. Having identified a number of structural,

¹⁹⁶ This period also coincided with substantial changes in Government unrelated to the restructuring of the Department of Justice, with the establishment of the first Carpenter Ministry two days prior to the split, and the unanticipated appointment of a new Minister for Justice (subsequently Minister for Corrective Services) in 8 May 2006.

¹⁹⁷ Further, the political instability and budgetary climate at the time of the split did not create an environment that was ideal for the pursuit of major reforms.

systemic and community issues negatively affecting rehabilitation, the Committee's recommendations were generally associated with a more effective approach to rehabilitation programs; many of these relate specifically to Aboriginal offenders.

4.6.3 *Financial management of prisons: Standing Committee on Estimates and Financial Operations*

A report on the Financial Management of Prisons was released in 2000 by the Standing Committee on Estimates and Financial Operations. The Committee, initially appointed in 1989, is required to consider and report on any matter relating to the financial administration of the State.

The Terms of Reference directed the Committee to conduct a general inquiry into expenditure in the prison system and to consider alternative sanctions to prison sentences, the role of an external auditor and/or independent inspectorate, strategies aimed at reducing the recidivism rates of prisoners, and strategies to deal with drug dependent prisons.

The Committee supported the increased use of alternatives to imprisonment and recommended several changes to legislation such that only dangerous criminals are incarcerated.

The Committee also recommended the introduction of Service Level Agreements to underpin the relationship between the Department and the prisons. The Committee believed that a prison stands to benefit from a Service Level Agreement's clear and unambiguous statement of roles and responsibilities. Service Level Agreements are discussed in more detail in Chapter 5 of this Report.

5 Consistent standards across the prison system

5.1 Introduction

Private prisons in Western Australia are subject to robust governance arrangements. Contracts between the Department and Serco for the management of Acacia and Wandoo establish clear roles and responsibilities, performance targets and consequences for non-performance. The contracts between the Department and Serco establish high levels of accountability and transparency.

The ERA considers that the public prison system would benefit from a similar document formalising the relationship between the Department and each public prison. Such a document would clarify respective roles and responsibilities, and ensure greater accountability and transparency about the performance of each public prison.

Furthermore, the ERA observes a need to clearly define the objectives of each prison in the prison system in order to support robust planning. This will help to ensure that the combined objectives of individual prisons align with the overall objectives of the prison system, allowing the use of prison resources and infrastructure to be optimised.

The ERA recommends that every prison in the public system be subject to Service Level Agreements, containing similar terms and conditions as commercial contracts between the Department and private prison operators.

A Service Level Agreement would set out:

- *Expectations* – The manner in which both parties to the Service Level Agreement will behave and interact with each other, how each party will respond to unexpected events, and the specifications of the prison.
- *Financial agreement* – The level of funding available to the Superintendent for operating the prison, and arrangements for adjusting funding when circumstances change.
- *Performance framework* – The service standards required from the prison, and the performance monitoring framework applied to the prison. Service standards set out the minimum standards that an organisation must meet in delivering its operations.

Service Level Agreements must have particular features to ensure that they are effective. The ERA considers that Service Level Agreements must:

- *Be based upon robust planning* – The Department needs to be clear about what needs to be delivered, and the role of each prison within the broader prison system. The Department must engage in comprehensive forward planning and resource allocation to ensure that the combined objectives of individual prisons deliver the overall objectives of the prison system.
- *Be sufficiently flexible to cope with changing circumstances* – no matter how sound the planning of the Department, circumstances will change that will affect the size and demographics of the prison population. Service Level Agreements should establish clear, good-faith processes for adjusting funding levels for prisons when circumstances change.
- *Be realistic and achievable* – Service Level Agreements must be informed by robust cost information to ensure that Superintendents are capable of delivering the expected services with the funding they have been allocated. The Department does not have robust information on how much it currently costs individual prisons to

deliver specific prison services, nor on the efficient cost of delivering those services. Developing this understanding is a foundation step in ensuring that Service Level Agreements are realistic and achievable.

- *Hold Superintendents accountable for aspects of prison operations they can influence* – Currently, Superintendents are not accountable for a range of activities that are undertaken within each prison, such as health and education services. These are managed centrally by the Department. As a consequence, Superintendents have weaker incentives to ensure these services are delivered efficiently. In part, this can be addressed by assessing the performance of Superintendents against benchmarks that measure the aspects of these services that Superintendents can influence.
- *Include appropriate incentives and consequences* – It is important to establish clear incentives for good performance and there are ways to encourage high standards of performance in public prisons. These can include fixed term contracts for Superintendents, allowing prisons to retain a portion of funding generated by industries, and publishing information on the performance of prisons.

The remainder of this chapter is structured as follows:

- a summary of submissions in response to the Draft Report;
- an overview of the contents of a Service Level Agreement;
- a discussion of why Service Level Agreements should be introduced;
- a short history of Service Level Agreements in the Western Australian prison system; and
- a discussion of the key measures and reforms required to ensure that Service Level Agreements achieve their intended purpose.

5.2 Summary of submissions on the Draft Report and ERA response

The ERA received submissions from stakeholders on Service Level Agreements and related topics in response to the Draft Report, including:

- the role of Service Level Agreements in addressing governance issues;
- the merits of direct administrative guidance relative to contracts;
- the development of Service Level agreements;
- the operating philosophy and objectives of prisons;
- comparisons with United Kingdom-based reforms;
- the introduction of penalties and incentives for prisons and Superintendents; and
- the expansion of prison industries.

In the following sections, the ERA provides a summary of the submissions from stakeholders on each of these topics and the ERA's response

5.2.1 Role of Service Level Agreements in addressing governance issues

Several submitters commented on the extent to which Service Level Agreements would address the governance issues that the ERA identified in the prison system. These submitters included the CPSU/CSA, Professor Podmore, and WAPOU.

The CPSU/CSA questions whether the ability of the Government to not renew the contracts of private providers who are not meeting required standards improves accountability and transparency. The CPSU/CSA considers that there are a small number of providers in Western Australia that continue to successfully tender for contracts, despite some examples of questionable performance, because there are few alternative providers. The CPSU/CSA submits that this does little to maintain adequate levels of accountability and transparency in the private prison system.

Professor Podmore submits that the ERA identifies a number of cogent arguments for the development of Service Level Agreements for prisons. Professor Podmore states that the ERA also raises some very real problems both past and present in implementing Service Level Agreements and what should be contained in a good Service Level Agreement.

WAPOU submits that privatising a prison serves to decrease transparency rather than increase it. WAPOU submitted this in response to the ERA's statement that introducing Service Level Agreements for public prisons would increase transparency. The ERA holds this view because Service Level Agreements will replicate the Department's reporting requirements with respect to private prisons, including publishing all contracts and reporting annually on performance against the standards in these contracts. As evidence that privatising prisons will decrease transparency, WAPOU states that:

- the *Freedom of Information (Amendment) Act 1993 (Vic)* does not apply to private operators;
- market incentives and the profit motive may be too easily substituted for the public interest as well as form primary markers of programmatic success;
- legislation can be passed to further limit transparency;
- the delegation of public functions to private bodies potentially remove protections against human rights violations; and
- for private prisons the public is usually excluded from regular information about the treatment of prisoners. The assertion that having a private provider's contract publicly available can compensate for that level of openness and debate, accountability and access to the *Freedom of Information Act 1992 (WA)* (**FOI Act**) is "exceedingly thin".

WAPOU submits that there is a genuine desire for transparency, and therefore the Government should take the approach applied in Kentucky (USA) by stipulating that private providers must develop a strategy for disseminating information to government, the public and the media, with all documents and records (with the exception of financial) being deemed public.

5.2.1.1 ERA response

The ERA considers that there is scope for the Government to replace poorly performing service providers. The Government has previously replaced Australian Integration Management Services Corporation (**AIMS**), the original operator of Acacia prison. The ERA has been told that in 2005, the then Inspector of Custodial Services wrote a memorandum to the Minister for Justice recommending that the contract with AIMS not be renewed, due to poor performance, and that the contract for Acacia prison be subject to a competitive

tender. The Department of Justice decided not to renew the contract with AIMS, and Serco was selected as the new operator of the prison.

The ERA does not agree with WAPOU that private provision of prisons and prison services will decrease transparency rather than increase it. The operations and performance of Western Australia's private prisons are considerably more transparent than those of the State's public prisons. In particular, the ERA notes that Section 15G of the *Prisons Act 1981* requires the Commissioner to publish any contract between the Department and a private prison operator and report annually on the performance of each privately operated prison in the State. Contracts between the Department and private providers establish the services to be provided, the standards of performance and the funding provided for the prison's operation.

A similar level of transparency does not exist for public prisons because there is no documented agreement about the services, standards and funding of public prisons. The ERA's recommendation that the Department introduce, publish and report against Service Level Agreements for all public prisons is designed to ensure public prisons are held to the same standards of transparency as private prisons.

The ERA has also investigated the claim that the privatisation of a service means that the FOI Act does not apply, thereby limiting the transparency of contracted operators. In its submission to the ERA's Issues Paper, the Office of the Information Commissioner (the State agency responsible for administering the FOI Act) stated that the FOI Act provides right of access to documents held by State and local government agencies.¹⁹⁸ In the context of the prison system, the term 'agency' extends to include contractors and sub-contractors as defined in the *Prisons Act 1981*. That is to say, any provider of custodial services in Western Australia, whether public or private is subject to Freedom of Information laws. The ERA therefore disagrees with WAPOU's claim that the operation of a prison by the private sector is a compromise to standards of transparency.

The ERA considers that the publication of data is one of the simplest, most cost-effective ways to raise the level of transparency and accountability in any public sector organisation.¹⁹⁹ Additionally, publishing public sector data can contribute to economic benefits by supporting community innovation and new service delivery models.²⁰⁰ This issue is discussed in more detail in Section 7.4, in which the ERA recommends that the Department introduce a policy of publishing its operational and financial data by default, wherever there is no compelling or confidentiality reason not to do so. The ERA considers that these standards should be applied equally to public and private prison operators.

5.2.2 Direct administrative guidance preferable to contracts

Dr Toner states that the recommended governance arrangements seek to reproduce in the public system the contractual arrangement between the Department and private prisons. Dr Toner submits that the ERA does not cite any authorities for its endorsement of the use of

¹⁹⁸ Office of the Information Commissioner, *Submission to the Economic Regulation Authority – Inquiry into the Efficiency and Performance of Western Australian Prisons, Issues Paper*, 2014.

¹⁹⁹ It is important to be clear that these recommendations are in relation to aggregated data about the Department's financial and operating performance – that is, system wide data about what the Department is doing and how well it is doing it. They do not refer to data about individuals within the prison system, and should never be identifiable down to an individual level.

²⁰⁰ The economic case has been increasingly well quantified in recent years, with Nicholas Gruen's recent study placing the potential value of the economic value of open data in Australia in the billions of dollars – a total of \$30 billion across a range of sectors. (Gruen, N, *Open for Business: How Open Data Can Help Achieve the G20 Growth Target*, Melbourne, Lateral Economics, 2014.)

Service Level Agreements, rather it simply asserts that the contractual form of relationship is preferable to the current system of direct administrative guidance.

Dr Toner submits that the ERA should assess the governance arrangements by examining the cost and benefits of delivering prison services using contractual versus direct administrative guidance and the conditions for preferring one governance system over another.

Dr Toner offers a number of reasons why he considers direct administrative governance is superior to contractual governance in certain circumstances. Reasons given by Dr Toner are:

- the risk of contracting out the service is excessive. Dr Toner states that an example of excessive risk and inefficiency in contracting out is where the contractee (in this case the Department) has to maintain large surplus production capacity to guarantee continuity of supply should the contractor (in the context of Service Level Agreements this is a public prison) fail to deliver according to the contract or enters bankruptcy;
- it is impossible to derive accurate benchmarks, standards and costs that cover the principal activities of the contractee or contractor; and
- the cost of developing and monitoring these metrics is high and the organisation inherently requires flexibility in its operations, which is either impossible and/or generates costly inefficiencies when incorporated into a contract.

5.2.2.1 *ERA response*

Dr Toner provides three substantive reasons to explain why he considers direct administrative governance to be superior to contractual governance for public prisons. These are:

- the risks associated with contracting out prison operations;
- the difficulty of establishing accurate benchmarks, standards, and costs; and
- the high cost of monitoring private providers.

These issues are addressed below.

Risks associated with contracting out prison operations

The issues raised by the Dr Toner relate to the risks of contracting private operators to manage prisons. Service Level Agreements are not contracting out, rather they formalise the relationship between public prisons and the Department by setting out formal standards and performance expectations.

The ERA notes that the introduction of Service Level Agreements for public prisons does not introduce any additional risks to the prison system. Risks of underperformance or bankruptcy exist regardless of whether a Service Level Agreement is in place, albeit the risk of bankruptcy is minimal in either case. If anything, the presence of a Service Level Agreement is likely to mitigate these risks because they specify the services that are to be delivered and require the Superintendent to regularly report their performance against these standards. This arrangement affords the Department greater opportunities to identify and mitigate risks of underperformance (or a failure to deliver) earlier than would otherwise be the case.

Establishing accurate benchmarks, standards, and costs to cover operational activities

The ERA considers that it is possible to develop benchmarks, standards and costs for the activities to be covered by the Service Level Agreement. These already exist in the contract between the Department and Serco for the management of Acacia and Wandoo. Nevertheless, the ERA agrees that further analysis needs to be completed by the Department, hence the recommendation by the ERA to conduct a specification and costing exercise. The specification and costing program is discussed in Section 5.6.3.

The cost of monitoring private prison operators

The absence of contractual governance does not absolve the Department from its responsibility to ensure that services are being delivered. These services must be monitored irrespective of whether Service Level Agreements are in place. The ERA considers that Service Level Agreements may simplify monitoring by establishing a clearer agreement about services, standards and funding.

5.2.3 Development of Service Level Agreements

Andrew *et al* and Professor Podmore comment on the way in which Service Level Agreements should be developed.

Andrew *et al* submit that Service Level Agreements need to be developed in conjunction with staff of all levels within prisons. Andrew *et al* state that the Department needs to ensure that the benefits of implementing Service Level Agreements are communicated to all staff.

Professor John Podmore submit that it is essential that Service Level Agreements reflect the needs of the community. Professor Podmore states that in the Western Australian context, cultural specificity should be a high priority. Professor Podmore submits that a Service Level Agreement for an individual prison should represent a sub-set of an overall integrated plan for the entire prison service and a wider plan for the criminal justice system. Finally, Professor Podmore states that a Service Level Agreement should be developed considering government priorities and key cost drivers of prisons (being prison population, security level and interventions).

5.2.3.1 ERA response

The ERA agrees with the points raised by Andrew *et al* and Professor Podmore. The Department should maintain regular communication with all staff during the development and implementation of Service Level Agreements to ensure that they understand the rationale for, and implications of, Service Level Agreements. This is discussed further in Section 5.6.

Similarly, the ERA agrees with Professor Podmore that it is important for the Department to ensure that Service Level Agreements reflect the cultural requirements of Aboriginal people, and represent a sub-set of an overall integrated plan for the entire prison system and a wider plan for the justice system. This is discussed further in Section 5.6.1.

5.2.4 Operating philosophy and objectives

WAAMH supports the identification of an operating philosophy and objective for prisons. WAAMH recommends that these include the Mental Health Commission's guiding principles for forensic services – that persons in contact with the justice system should receive mental health, alcohol and other drug services equivalent to services available to individuals in the community.

WAAMH recommends that objectives include the active identification of prisoner mental health needs and a requirement to respond through the provision of accessible, effective and contemporary mental health services.

WAAMH urges the ERA to recommend that the Department consult extensively with other government agencies, relevant Non-Governmental Organisations (**NGOs**) and advocacy bodies in the development of prison's operating philosophy and objectives, reflecting inter-relationships between justice and human services systems.

5.2.4.1 ERA response

The Mental Health Commission's guiding principle for forensic services is that persons in contact with the justice system should receive mental health, alcohol and other drug services equivalent to services available to individuals in the community, with due regard to community safety.²⁰¹

The ERA endorses this principle on the basis that imprisonment deprives prisoners the ability to engage freely with public health and addiction services. The ERA expects that the Department, in providing these services (either directly or through contracts) would detail the standards expected and that these standards would be comparable with the service standards available in the community.

However, the ERA has not examined whether a gap exists between mental health, alcohol and other drug services provided in the community and those provided in the prison system, or estimated the costs of addressing any potential gap. As such, the ERA is unable to provide advice as to whether the Department should adopt the guiding principles for forensic services.

In developing service standards and Service Level Agreements, the ERA expects that the Department would engage with stakeholders whose work interacts with that of the Department, including other government agencies, NGOs and advocacy bodies. However, the ERA considers that the Department is best placed to assess the appropriate extent and nature of such engagement, and has not made a specific recommendation on this matter.

5.2.5 Comparison to United Kingdom-based reforms

The CPSU/CSA, Professor Podmore, and WAPOU comment on the specification, costing and benchmarking program implemented by the National Offender Management Service (**NOMS**) in the United Kingdom, and which the ERA has recommended that the Department replicate in the Western Australian prison system.

The CPSU/CSA notes that empirical assessments of the NOMS model in the United Kingdom have found mixed results. The CPSU/CSA submits that the Western Australian prison system does not have the economies of scale or heightened sense of competition as in the United Kingdom. The CPSU/CSA states that the ERA does not explore critiques of the NOMS model, including poor operationalisation and communication and workforce demoralisation.

Professor Podmore notes that the recommended specification, costing and benchmarking program is highly complex and has taken a number of years to implement in the United Kingdom. Professor Podmore observes that the program is still in its final stages of completion and so its effectiveness has not been evaluated. Similarly, Professor Podmore states that there is no data to show what the process cost, how many staff were involved or what the resource implication on the operational component of the prison system was in

²⁰¹ The Government of Western Australia, *The Western Australian mental health, alcohol and other drug services – Plan 2015 -2025*, Perth, 2015, p.65.

establishing some of the data. Professor Podmore submits that there has been no examination of the accuracy of the data or its relevance across various components of the service. Professor Podmore states that there have been significant cost savings across the service, but there is no evidence that this is as a result of the specification, costing and benchmarking program or significant cuts in staffing levels.

Professor Podmore cites the United Kingdom House of Commons Justice Committee report, which notes a deterioration in the standards of safety and performance across the prison estate over the last two years. Professor Podmore states that the House of Commons consider it likely that there is a link between estate reconfiguration, benchmarking and changes in operational policy, including the Incentives and Earned Privileges scheme, and the shift in safety across the prison estate.

Professor Podmore also cites comments by the Justice Committee that the benchmarking in the United Kingdom meant that prison officers had to change the way they worked (that is, becoming roving resources as opposed to being permanently assigned to one wing).

WAPOU expresses concern that cost benchmarking can result in unworkable cuts to staffing levels that do not adequately account for all factors. WAPOU cites comments made by a former Director for the National Offender Management Service that “if you have a prison estate with structural inefficiencies...you are still left with those structural inefficiencies, and fewer staff [after implementing benchmarking]”.

WAPOU submits that dangerously reduced staffing levels is one of the key elements of the crisis in the United Kingdom prison system. WAPOU states that the Western Australian prison system already faces staffing shortages in some areas, exacerbated by punitive budget cuts that have limited the capacity to meet safe staffing levels. WAPOU does not believe that further staffing cuts implied in the ERA’s recommendations are safe.

Research by WAPOU suggests that staffing level benchmarks applied to each prison in the United Kingdom did not reflect a neutral and scientific assessment process, instead being weighted towards a preference for high security prisons and prisons with very active local staff (who succeeded in negotiating higher staffing levels through leverage as opposed to a real difference in need).

5.2.5.1 *ERA response*

Many submitters expressed opposition to the idea of the Department undertaking the benchmarking component of the specification, benchmarking and costing program undertaken in the United Kingdom and discussed in the Draft Report.

The ERA agrees that the benchmarking approach undertaken in the United Kingdom is not appropriate for Western Australia’s prison system. Rather, the ERA recommends a separate benchmarking exercise, as discussed in Chapter 6.

Under the ERA’s recommended benchmarking approach, the ERA does not advocate for or expect any change to the number of prison staff or the way that they undertake their jobs as a consequence of the Department collecting more information on the costs of running prisons. Operational matters of this nature are for the Department and Superintendents to determine.

Professor Podmore also emphasises the complexity of the specification, benchmarking and costing program undertaken in the United Kingdom. The ERA acknowledges that such exercises are generally complex, and do require an investment of time and resources. However, the ERA considers it a fundamental role of the Department and prison operators to understand what services are to be delivered and the cost of delivering those services. Without this knowledge the Department is unable to adequately plan the delivery of service, monitor and control service delivery against a plan, and support overall cost

management.²⁰² This was recognised by the United Kingdom National Audit Office in an audit of the National Offender Management Service when it stated that “(t)he Agency’s ‘Specification, Benchmarking and Costing’ program is comprehensive...and gives prisons and probation trusts tools to cost their activities”.²⁰³

5.2.6 Penalties and incentives

The CPSU/CSA is opposed to the commercialisation of the role of Superintendents. That is, introducing fixed term contracts for Superintendents aligned with the term of Service Level Agreements.

The CPSU/CSA cites MacDermott and Stone²⁰⁴ as providing evidence that job insecurity is contradictory to improving performance and effectiveness in the public sector. Furthermore, the CPSU/CSA submits that evidence suggests that innovation is not driven by adversity associated with job insecurity.²⁰⁵

WAPOU submits that offering financial incentives for prison industries encourages private prison operators to continue to open industries no matter how low staffing levels are, stating that these outcomes have already been borne out.

WAPOU notes the ERA’s recommendation that public prisons retain a proportion of revenues generated from their prison industries as an incentive for efficient operation. WAPOU submits that there are numerous potential problems with such strategies, stating that this has already been borne out in the experience of private prisons that continue to open industries no matter how low staffing levels are.

WAPOU submits an example of unintended consequences that have resulted from financial incentives in a Canadian private prison. WAPOU submits that, in the private prison, the number of prisoner searches (for contraband or weapons) were reduced because they disrupted programs run by the prison (for which the prison was paid by the hour for providing). WAPOU states that this ignores practices that were traditionally used by prison officers to ensure their own safety.

5.2.6.1 ERA response

The ERA considers that the MacDermott and Stone paper cited by the CPSU/CSA does not provide evidence that fixed term contracts are not effective in improving performance. The central conclusion of the report is that across-the-board public sector budget cuts lead to long-term problems, including a loss of public sector productivity and innovation, and a reduction to the effectiveness of public services.²⁰⁶ The authors offer no explicit conclusions on the effect of job security on performance, effectiveness or innovation.

WAPOU identifies one problem arising from offering financial incentives for prison industries (that is, continuing to open industries irrespective of staffing levels), despite submitting that there are numerous potential problems, which it states have “already (been) borne out in the experience of private prisons”. This point assumes that, when providing public prisons

²⁰² NSW Treasury, *Service Costing in General Government Sector Agencies*, Sydney, Government of New South Wales, 2007.

²⁰³ Australian National Audit Office, *Restructuring of the National Offender Management Service – Summary*, Canberra, Federal Government of Australia, 2012, p.8.

²⁰⁴ K. MacDermott. And C. Stone, *Death by a thousand cuts: How governments undermine their own productivity*, Occasional Paper 13, Centre for Policy Development [Online], 2013.

²⁰⁵ K. MacDermott. And C. Stone, *Death by a thousand cuts: How governments undermine their own productivity*, Occasional Paper 13, Centre for Policy Development [Online], 2013, pp. 18-22.

²⁰⁶ K. MacDermott. And C. Stone, *Death by a thousand cuts: How governments undermine their own productivity*, Occasional Paper 13, Centre for Policy Development [Online], 2013, p.5.

with incentives to operate efficient prison industries, there are no constraints on the extent to which new prison industries can be established. This is not the case.

Sections 95(1) and 95(2) of the *Prisons Act 1981* provide the Department with guidance on the purpose and intention of services and programs (including prison industries) organised for prisoners. These include assisting prisoners to integrate within the community on release and providing opportunities for educational or occupational self-improvement. Prior to introducing any new prison industry, the Superintendent will be required to demonstrate that the new activities meet these rehabilitation outcomes prior to receiving approval from the Department. The ERA expects this arrangement to remain in place.

With respect to staffing levels, Superintendents should rightly have discretion to operate prison industries provided that standards set out in their Service Level Agreement are met (including those for rehabilitation and staff and prisoner safety). Any failure to comply with the standards could trigger remedial action from the Department.

The ERA acknowledges that unintended consequences arising from a Service Level Agreement or contract could occur. However, it is unlikely that any issues will be significant given the Department's experience with contracting. One of the benefits of contracting is that lessons learned from past contracting exercises can be incorporated in all future contracts. In this respect, the Department has over 15 years of contracting experience and, over this time, the Department will have encountered and developed solutions to the major challenges associated with drafting contracts for the operation of prisons in Western Australia.

The ERA considers that any unintended consequences arising from financial incentives for operating industries can be addressed through variations to Service Level Agreements. Service Level Agreements will contain variation clauses that allow for the terms of the Agreement to be varied in the event that they encourage unexpected and undesirable behaviour, similar to those contained in contracts with private providers. Additionally, the fixed term nature of Service Level Agreements offers the Department regular opportunities to address any issues with the terms of Service Level Agreements.

However, the Department should not rely on variation clauses to eliminate unintended consequences once they have arisen. The development of Service Level Agreements should be based on comprehensive consideration of incentives to ensure that they will achieve desired outcomes. Similarly, Superintendents are responsible for the achievement of many outcomes, including the safety of staff. Accordingly, under this framework, a Superintendent cannot undertake activities that will endanger staff without compromising the achievement of performance standards.

5.2.7 Expansion of industries

Professor Podmore and Dr Toner comment on the ERA's view that industries could generate greater financial returns for prisons.

Professor Podmore notes that the ERA has argued that competition can reduce costs by encouraging prisons to become entrepreneurial and generate income. Professor Podmore submits that the United States has experience in engaging prisoners in commercial activities has resulted in prisoners being exploited. Professor Podmore submits that there are alternatives that involve Superintendents generating income in partnership with communities and for the benefit of the taxpayer rather than the shareholder. Professor Podmore submits that reducing reoffending should be explicit in the process rather than company profit.

Dr Toner expresses concern that the ERA has focused on the commercial aspects of prison industries at the expense of rehabilitation benefits. Dr Toner also submits that the ERA fails to consider the perverse incentives that may arise if profit is the primary motive for operating

prison industries. Dr Toner also submits that the United Kingdom has taken a more commercial approach to prison industries, an approach that the House of Commons report found to be a failure.

5.2.7.1 ERA response

Given the protections already in place in Western Australia's prison system, the ERA does not share the concern that prisoners will be exploited in the event that Superintendents are able to retain a proportion of revenues generated by their prison industries. As noted above, sections 95(1) and 95(2) of the *Prisons Act 1981* state that service and programs (including prison industries) may be designed and instituted with the intention of achieving a range of rehabilitation outcomes.

Submitters expressed concern that allowing Superintendents to adopt a more commercial approach to prison industries may come at the expense of rehabilitation outcomes for prisoners. The ERA does not advocate circumventing the rehabilitation of prisoners in order to achieve commercial gains. Section 95(2) of the *Prisons Act 1981* applies to privately operated prisons and the ERA expects that it will continue to apply to publicly operated prisons should their industries program have a greater commercial focus.

The ERA considers that the sole reason for the establishment of any prison industry should be for the rehabilitation of the prisoners employed by the program. Only once this objective has been met should Superintendent's be granted the opportunity to consider options to derive commercial benefits from prison industries. Similarly, any activity that undermines prisoner rehabilitation should be stopped immediately.

Any revenue generated by public prisons through prison industries and retained by the prison would have to be used solely for prison expenditure. This would benefit the State (and hence taxpayers), which is effectively the shareholder of public prisons. The remainder of the revenue that is not retained by an individual prison is returned to the Department, which is also to the benefit of the State (and taxpayers).

The ERA has reviewed the comments in the House of Commons report. The House of Commons Report does not imply that prison industries have been a failure. In particular, the House of Commons concludes that "(t)he Government's working prisons policy is a worthy aim and prison industries are becoming more common"²⁰⁷ and that there are insufficient workshops to enable the majority of prisoners to do work that will equip them for employment on release, and that involving prisoners on a commercial basis and normalising them to a working week is not achievable without sufficient staff.²⁰⁸

The ERA discusses prison industries in more detail in Section 5.6.5.1

5.3 Overview of Service Level Agreements

Service Level Agreements generally include three components: the expectations and commitments of both parties to the agreement, financial arrangements, and the performance framework.

²⁰⁷ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015, p.24.

²⁰⁸ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015, p.24.

5.3.1 *Expectations*

A Service Level Agreement would describe the expectations placed on both parties to the Agreement. Broadly, this covers the manner in which both parties will behave and interact with each other, how each party will respond to unexpected events, and the specifications of the prison.

This may include:

- The prison's operating philosophy and objectives.
- The capacity of the prison and the category of prisoners to be housed (for example, security classification, gender, sentenced or remand, age).
- The requirement that, in the event of a serious disturbance, unplanned loss of available accommodation or other unplanned and unexpected events, both parties to the contract engage constructively in developing appropriate plans to manage and minimise disruption.

5.3.2 *Financial arrangements*

The Service Level Agreement would detail the financial agreement between the Department and Superintendents. In particular, Service Level Agreements outline the level of funding available to the Superintendent for operating the prison and any financial penalties for poor performance or financial incentives for good performance.

The Service Level Agreement can be used to establish the expected capacity of the prison and mix of prisoners. The aggregate funding available to the Superintendent would be based on this population and the mix of prisoners being housed. As a prison's population increases beyond the specified population, funding would increase accordingly. Similarly, changes in the prisoner mix may result in funding changes if the mix results in a higher (or lower) proportion of high needs prisoners.

5.3.3 *Performance framework*

The performance framework sets out the service standards required from the prison and the performance monitoring framework applied to the prison.

Service standards set out the minimum standards that an organisation must meet in delivering its operations. These can be considered 'core' prison services and include (but are not limited to):

- Prisoner care and wellbeing, including food and nutrition, recreation, religious and spiritual needs, and clothing;
- Processes for reporting serious incidents;
- Processes for drug testing prisoners;
- Mechanisms for identifying and managing prisoners at risk of suicide or self-harm;
- Hygiene and accommodation standards;
- Standards for prisoners receiving visits and communication with family and friends; and
- Data collection, including processes for collecting data and stipulating data that must be collected.

Because service standards describe the 'core' operations of the prison, they should be uniform across all prisons. The assessment of service standards is binary; that is, the

standards are either achieved, or they are not. The performance of individual prisons against these standards would be monitored, audited and publicly reported.

Performance targets are used to establish the objectives of the prison and the outcomes expected of the prison. Performance targets relate to the outcomes expected from prisons. These outcomes are generally non-binary in nature and operators can be rewarded for exceeding the performance expected of them, or alternatively penalised for not achieving the expected performance targets.

Performance targets can generally be classified into one of four categories: Safety and Security, Rehabilitation, Prisoner Quality of Life and Prison Management. Each is discussed below:

- *Safety and security* – targets relating to safety and security focus on ensuring the safety of the community, prisoners and prison officers. This includes measures such as escapes, occurrences of assault within prison (either on prisoners or staff), unnatural deaths and prisoner self-harm or attempted suicide.
- *Rehabilitation* – Rehabilitation targets can vary widely depending on the contracting that has taken place. Rehabilitation performance of individual prisons should be measured in terms of their contribution to rehabilitation outcomes. This can include prisoner participation in programs, education or employment and the prevalence of drug use in the prison. Targets rely on the extent to which prisons are able to influence outcomes in this area.
- *Prisoner quality of life* – targets in this area reflect the need to treat prisoners humanely in order to achieve positive outcomes. Measures may include time prisoners are out of cell, time spent in constructive activity or a survey of the prisoner population.
- *Prison management* – targets relate to the need for a prison to achieve outcomes in the preceding areas in the most efficient way possible. This could include whether the prison is operating on budget.

Each of these performance areas is discussed in more detail in Chapter 6.

The manner in which the performance targets are monitored would also be set out in the Service Level Agreement. It will outline who has the responsibility for assessing performance against the standards, how the assessment will be conducted and audited, and how regularly performance monitoring will be undertaken.

Benchmarking is a key means for assessing whether a provider is achieving the performance targets that are expected. Well-constructed benchmarking also offers the opportunity to compare the performance of similar or competing prison operators. This allows the Department to identify and remedy poor performance.

Similarly, benchmarking allows the Department to identify areas in which individual prisons are performing well. In both instances, the Department can investigate the reasons for good or bad performance and use the findings to improve performance across the entire system.

Performance benchmarking is discussed in detail in Chapter 6.

5.4 Role of Service Level Agreements

The ERA considers that Service Level Agreements between the Department and Superintendents of public prisons would:

- establish greater role clarity between the head office of the Department and prison Superintendents;

- establish higher standards of accountability for prisons and the Department as a whole; and
- allow for greater transparency about prison operations, and how prison performance is measured (an outcome that further supports accountability).

These outcomes are discussed in more detail below.

5.4.1 Role clarity

As outlined in Chapter 4, there is a significant level of uncertainty in the public prison system about roles and responsibilities, particularly between the head office of the Department and prison Superintendents. The ERA has observed a degree of informality within the prison system that allows for roles, responsibilities, and authority to change without a reallocation of resourcing requirements, or robust assessment of the costs and benefits of the change.

This is a problem, as organisations and individuals cannot reasonably be held accountable for decisions over which they have little control. In particular, it is difficult to make Superintendents accountable for the management of prisons when their performance is significantly influenced by decisions that are effectively made by other parties.

The ERA considers that Service Level Agreements would provide a mechanism to formalise the relationship between the Department and Superintendents. These agreements would serve to prevent roles and responsibilities changing without due consideration and consultation, ensure that resourcing can be directly tied to performance requirements, and provide clarity as to what activities and decisions fall within, and outside, the authority of Superintendents.

More specifically, the ERA considers that Service Level Agreements should define the services that are to be provided by prisons, and the outputs and outcomes that should be achieved by the Department and by prison Superintendents. In doing so, they should provide a clear explanation of the responsibilities of both the Department (for example, providing adequate resourcing and administrative support) and Superintendents (for instance, making specific managerial decisions).

This will serve to provide both Superintendents and the Department with clear guidelines as to their authority and autonomy to make decisions affecting prisons, and outline the circumstances under which each party must consult with the other before making a decision.

Providing Superintendents with a clearer understanding of their role and responsibilities will allow them to more effectively negotiate the outcomes that can be expected by the Department, given the resources provided.

5.4.2 Accountability

The uncertainty about roles and responsibilities between the Department and Superintendents makes it difficult to establish accountability for specific outcomes because it is not clear who is responsible for the outcome. This lack of clarity serves to diminish accountability between various parties in the prison system.

Similarly, it affects accountability to external parties, both in reporting outcomes and the reasons for those outcomes to Government, and more generally, articulating the Department's performance to stakeholders and the broader public.

Service Level Agreements establish a framework for holding the parties to the agreement to account, by clarifying roles and responsibilities, establishing performance targets, and the processes that should take place when standards are not met. They also establish how

performance should be measured, allowing this to be both agreed by the parties to the agreement, and communicated effectively to external stakeholders.

The current agreements between the Department and Serco provides a good example of what can be expected from a Service Level Agreement. The outcomes and performance targets that the Department expects from Serco in its operation of Acacia and Wandoo are clearly set out in contracts between the two parties. These contracts also establish a range of financial incentives and penalties that can be applied to Serco depending upon its performance. Having the outcomes clearly articulated in contracts, and subject to specific financial incentives and penalties, makes Serco accountable for achieving the outcomes expected by the Department.

In addition, Serco is subject to fixed term contracts and knows that, if it does not meet the required standards, its contract will not be renewed. This would not only result in the immediate loss of business, but also affect its reputation and potentially its chances of winning business in other jurisdictions.

The ERA proposes that a fixed term should also apply to Service Level Agreements between the Department and Superintendents. This would allow the Department to modify Service Level Agreements periodically to accommodate any changes in its long-term plans for the prison system.

Fixed term agreements would also provide an opportunity for the Department to assess the overall performance of the Superintendent and determine whether they are best placed to operate the prison over the next term of the Service Level Agreement. This provides a strong incentive to perform well, and ensures that those operating prisons are focused on achieving the outcomes specified in their Service Level Agreements.

5.4.3 *Transparency*

The ERA has observed that there is a particular lack of transparency when it comes to the performance and operations of Western Australia's public prisons, especially when compared to the information and documents released in relation to private prisons.

Information about the performance of private prisons in Western Australia is relatively transparent. The contracts between the Department and private prison operators are required to be publicly available and the Department is required to report annually on the performance of each private prison operator against their contracted terms.

However, the same requirements are not imposed on public prisons. The ERA considers that Service Level Agreements agreed with Superintendents should be publicly available and that the Department should report annually to Parliament on the performance of each prison against the standards outlined in the agreements (in effect, mirroring the processes that currently apply to private prisons).

This level of transparency, coupled with periodic inspections by the Office of the Inspector of Custodial Services, will help to ensure that:

- The Department is accountable for establishing effective contracts and agreements, and for ensuring that they are consistently applied.
- Superintendents are publicly accountable for their performance against Service Level Agreements.
- The methods and measures used to assess performance are clearly articulated and widely understood.
- External stakeholders have sufficient information to assess the performance of both prisons and the wider Department, better understand the drivers of both successes and failures, and to comment on and provide input into the service delivery process.

5.5 History of Service Level Agreements in Western Australia

Previous inquiries into the Western Australian prison system have recommended the introduction of Service Level Agreements and attempts have been made to introduce Service Level Agreements in the past.

It is important to understand the reasons past Inquiries recommended the introduction of Service Level Agreements and most importantly, why past introductions of Service Level Agreements have not been successful.

5.5.1 Past inquiries

The Report of the Inquiry into the Incident at Casuarina Prison on 25 December 1998 recommended Service Level Agreements as part of a business and strategic plan with short, medium, and long-term objectives.²⁰⁹

This recommendation was reiterated in a Legislative Council Standing Committee Report on the Financial Management of Prisons published in 2000. The report also recommended the establishment of a working group with broad representation to draft appropriate Service Level Agreements.²¹⁰

The Committee highlighted certain aspects of the system in the United Kingdom in making the case for the introduction of Service Level Agreement in Western Australia:

- Service Level Agreements clearly outline the roles and responsibilities of service providers by providing unambiguous and comprehensive statements of requirements, standards and expected outcomes. Staff are told precisely what is expected of them and the resources they are provided.
- The budget for prisons under a Service Level Agreement should be 'ring-fenced' and not subject to efficiency gains. Efforts should be made to ensure funding levels and obligations of the prison under the Service Level Agreement are commensurate.
- Service Level Agreements were considered to represent the most effective tool for estimating the true cost of not just a prison, but of all activities conducted within it. This is of value to the budgeting process.

The Mahoney Inquiry although comprehensive in its recommendations (discussed in Section 4.6.1), makes no mention of Service Level Agreements.

5.5.2 Previous efforts to introduce Service Level Agreements

Service Level Agreements were introduced in the Western Australian prison system in 2007-08. In all, Service Level Agreements were finalised for six prisons²¹¹, with four having commenced monthly reporting.²¹² The ERA understands that Service Level Agreements for the remaining prisons in the system were close to being introduced. The introduction of

²⁰⁹ Ministry of Justice, *Report of the Inquiry into the Incident at Casuarina Prison on 25 December 1998*, Perth, Government of Western Australia, March 19 1999, p. 144-146 (as cited in the *Report of the Standing Committee on Estimates and Financial Operations in Relation to the Financial Management of Prisons 2000*).

²¹⁰ Western Australia Legislative Council, *Report of the Standing Committee on Estimates and Financial Operations in Relation to the Financial Management of Prisons*, 2000, p. 99.

²¹¹ Bandyup, Boronia, Bunbury, Casuarina, Hakea and Roebourne.

²¹² Casuarina, Hakea, Bandyup and Roebourne.

Service Level Agreements was initiated by the then Deputy Commissioner of Adult Custodial Services.

Shortly after the introduction of the Service Level Agreements, the Department appointed a new Deputy Commissioner of Adult Custodial Services, who subsequently replaced the Service Level Agreements with system wide Trimester Performance Reporting.

The ERA was advised by the Department that Trimester Performance Reports were prioritised because the prison system was in need of immediate performance management and accountability. The Department was still in its infancy following its creation as part of the reforms recommended by the Mahoney Inquiry. The new Deputy Commissioner of Adult Custodial Services took the view that Trimester Performance Reports could be introduced across the system more expeditiously than Service Level Agreements. The ERA was told that attempting to implement Service Level Agreements would have impeded the sense of urgency in introducing performance management and developing a performance culture.

5.6 Ensuring Service Level Agreements are effective

Service Level Agreements must have particular features to ensure that they are effective.

The ERA considers that Service Level Agreements must be based on robust planning and be sufficiently flexible to cope with changing circumstances. In particular, the Department needs to be clear about what needs to be delivered and what the role of each prison is within the prison system. The Department must engage in comprehensive forward planning and resource allocation to ensure that the combined objectives of individual prisons are designed to deliver the objectives of the prison system as a whole.

Even with robust planning, unforeseen circumstances may arise that will affect the size and demographics of the prison population. Service Level Agreements should establish clear processes for adjusting the funding levels for prisons when circumstances change and these processes must be conducted in good faith. These issues are discussed in more detail in the following sections.

As a general point, the ERA notes that the introduction of Service Level Agreements will represent a change in the way that Superintendents (and their staff) manage the operation of their prison. As with any change, the Department should maintain regular communication with all staff during the development and implementation of Service Level Agreements to ensure that they understand the rationale for, and implications of, the introduction of Service Level Agreements. It is the actions of prison staff, under the direction of Superintendents and their management team, which will ultimately ensure the terms set out in the Service Level Agreement are achieved and regular communication with staff about the changes being made will improve the likelihood of success of Service Level Agreements.

5.6.1 *Robust planning and monitoring*

For the prison system to operate efficiently, resources must be directed to the areas of greatest benefit. To achieve this, the Department must understand what it is trying to accomplish and identify how it will use the resources at its disposal to achieve its desired outcomes.

However, as noted in Chapter 7, the Department faces a number of longstanding issues with its planning and processes, and in the way in which it collects and uses information to make good decisions. These issues compromise the ability of the Department to perform efficiently and meet its objectives, both now and in the future.

The Department has stated that it aims to ensure a safer community by focusing on:

- the security of detainees and prisoners in correctional facilities and offenders in community based orders;
- the safety of its people;
- the safety of offenders, detainees and prisoners; and
- rehabilitation.

The manner in which these objectives are achieved depends on the number and mix of prisoners that the Department is responsible for accommodating. The security standards required for maximum-security prisoners are different to those of minimum-security prisoners. Similarly, the rehabilitation services provided will depend on the needs of the prisoner cohort being housed.

Risks arising from inaccurately forecasting the future number and mix of prisoners can be mitigated through the development of flexible facilities that can be configured to accommodate a range of prisoner security classifications. The ERA understands that the Department is considering ways in which this can be achieved.

As prisons take years to build,²¹³ the Department must be able to identify capacity constraints years before they occur. The Department can identify future capacity constraints by engaging in a comprehensive forward planning program. Comprehensive and robust forward planning will ensure that the Department is aware of the current and future prisoner needs in Western Australia and can plan capital expenditure with sufficient lead-time to ensure all prisoner needs can be met.

Having engaged in a comprehensive forward planning process, the Department will be in a position to not only ensure that the prison estate has sufficient capacity, but also identify and define the specific role that each prison in the estate plays in delivering the planned services. Considering the role of each prison in the context of the objectives of the entire prison system will ensure that the combined objectives of individual prisons are designed to deliver the overall objectives.

The Department should define the role that each prison plays in the Western Australian prison system by establishing the operating philosophy and objectives of each prison.

An operating philosophy should set out the objectives of the prison system as a whole, provide guidance to staff in individual prisons in their daily decision-making and provide a base upon which the operations of the prison are built.²¹⁴ Operating philosophies inform the operating model of a prison and its security strategies.

An operating philosophy should represent a subset of an overall integrated plan for the entire prison system. Where appropriate, it should also reflect the cultural requirements of Aboriginal people, and any other specific needs of prisoners being housed at the prison. This may include gender, age, security rating, geographic location and/or health.

Few prisons in Western Australia have a clear operating philosophy and objectives. Serco produces an operating philosophy and objectives in responding to the tender processes to operate private prisons. As such, both Acacia and the Wandoo have operating philosophies that are publicly available.

A clear operating philosophy and objectives for individual prisons is also important for ensuring that the prison system can continue to operate in an integrated manner. Individual

²¹³ The recently opened public private partnership prison in South Auckland, New Zealand, took almost five years to build, from the beginning of the tender process to its opening.

²¹⁴ Office of the Inspector of Custodial Services, *Directed review into an incident at Banksia Hill Detention Centre on 20 January 2013*, Perth, Government of Western Australia, 2013, p. 6.

prisons have different functions within the broader prison system.²¹⁵ These functions have implications for the number and types of prisoners held within an individual prison.

Similarly, each Service Level Agreement must be subject to a robust monitoring process. The contracts between the Department and Serco for the operation of Acacia and Wandoo are actively managed by the Department and Serco is required to report regularly on its performance against the standards set out in its contracts. The ERA understands that there are processes for the validation of data provided by Serco, should it be challenged by the Department. These processes are important for ensuring that Serco is meeting its contracted standards. To ensure that the Superintendents are achieving the standards as set out in their Service Level Agreements, they must be subject to the same standards of scrutiny and contract management. Good contract management is discussed in more detail in Section 8.7.4.

5.6.2 Flexibility

The establishment of Service Level Agreements between the Department and each prison should impose greater discipline on the Department in the planning and allocation of its resources.

The ERA understands that Superintendents of public prisons are currently obliged to accept any additional prisoners at the direction of the Department without any associated increase in funding.

In contrast, the contract for Acacia sets out the funding due to Serco for different levels of prisoner population. This approach acknowledges that there is a marginal cost to increasing a prison's population. The ERA recommends that Service Level Agreements with public prisons contain similar funding tables. This would require the Department to consider the cost implications of different prison populations.

However, robust planning activities and well-designed Service Level Agreements will not be able to appropriately account for all possible eventualities.

Variation clauses are standard components of many long-term contracts. However, Service Level Agreements differ from commercial contracts in that there is a power imbalance between the Department and the Superintendents responsible for delivering the terms of their Service Level Agreements.

The strength of the private contracts between the Department and Serco is that both parties to the contract must agree to any variations of their contract. If the proposed variation is commercially unattractive, Serco will not agree to the variation.

Unlike private providers, Superintendents do not have this authority if the Department proposes a variation that is considered unattainable or unreasonable because Superintendents ultimately take direction from the Department. These conditions also hold for negotiations establishing a Service Level Agreement.

The risks associated with the absence of Superintendent negotiating power can be mitigated by imposing greater transparency and robust variation processes on Service Level Agreements. Publishing Service Level Agreements will allow for additional public scrutiny of the performance expectations placed on the public prison system.

Similarly, variations to a Service Level Agreement could be published in a public register with a description of the amendment and justification for the change. This process can be used to prevent the Department from simply overriding a Service Level Agreement or

²¹⁵ For example, some prisons are designed to focus on preparing prisoners for re-integration into society, while other prisons are responsible for receiving prisoners who are on remand or are newly sentenced.

materially modifying a Service Level Agreement without good reason, without limiting the Department's ability to respond to unforeseen circumstances.

5.6.3 *Realistic and achievable expectations*

Service Level Agreements must be realistic and achievable if they are to be effective. This requires:

- the Department to have robust information on the services that need to be delivered and the cost of those services across the prison system (which can be achieved through a specification, costing and benchmarking program); and
- a process for negotiating the terms of Service Level Agreements with individual Superintendents, that reflect the specific circumstances of each prison.

Service Level Agreements should be informed by robust cost information to ensure that Superintendents are capable of delivering the expected services with the funding they have been allocated.

The Department does not have robust information on how much it currently costs individual prisons to deliver specific prison services or the efficient cost of delivering those services. Developing this understanding is a foundation step in ensuring that Service Level Agreements are realistic and achievable. Reflecting this, the ERA recommends that the Department engage in a specification, costing and benchmarking program (as detailed in Box 4).

Box 4 - Specification, costing and benchmarking program

The National Offender Management Service in the United Kingdom addressed the problem of not having robust information on how much it costs to deliver specific prison services or the efficient cost of delivering those services when it introduced its specification, benchmarking and costing program.

The purpose of the program was to:²¹⁶

- Define what should be delivered (the outcomes and outputs for services) – so consistent services could be delivered across all areas of the business;
- To know exactly what it costs to deliver each service; and
- Understand how a service can be delivered efficiently and the cost of delivering that service.

The services relating to secure and decent custody cover 61 categories, ranging from mandatory drug testing and managing prisoner finances to physical education and services for visitors. Each category of service is broken down into service elements. Each service element has a defined output, prisoner types that the service element applies to and the manner in which the service element is measured.

For example, 'services for visitors' is broken down into fourteen service elements, the first of which states that there must be decent, indoor facilities with toilets, seating and baby changing facilities that visitors may access when visiting. This is applicable to all prisoner types and is measured through the measuring quality of prison life survey (MQPL).²¹⁷

Having specified each service (and their associated service elements) the program then embarked on a comprehensive costing exercise to determine the efficient cost of delivering each service element (and thus each service).

The benefits of undertaking these activities are fourfold:

- By defining each service, it is possible to ensure that there is consistency in the way that services are delivered. This guarantees that prisoners are provided uniform services regardless of their location or who is responsible for operating the prison.
- The collection of cost information provides greater clarity and certainty about the services that a prison can deliver for a specified level of funding. The better understanding of costs also helped support public sector commissioning efforts.
- The collection of underlying cost information provides choice about the services that may be delivered, which offenders the services should be delivered to, the minimum levels of each service and whether there is flexibility to commission options above the minimum.
- Access to robust cost information allows the Department to compare the cost of individual prisons and better compare the cost of operating the more expensive (and presumably older) prisons with the cost of replacing them with new facilities that have lower operating costs.

This information improves the development of Service Level Agreements and commercial negotiations with alternate prison providers.

Robust cost information allows for open discussion about the services that can be delivered for the funding that is provided. In the event of budgetary changes it allows the Department to pinpoint the exact services that will be affected by the change and identify the risks (or benefits) of doing so.

Access to this information also enables the public sector to make informed decisions about the services it can offer and the cost of providing those services when competing with private sector providers in open tenders.

Costs and service requirements will vary from prison to prison, reflecting the specific circumstances of each prison. Service Level Agreements for individual prisons will need to reflect this variation to ensure an appropriate level of funding. This will require some

negotiation between Superintendents of individual prisons and the Commissioner of the Department.

There are a number of ways that the terms of a Service Level Agreement can be established. For example, in the commissioning model recommended by the ERA in Chapter 8, the Department would provide a request for tender document, describing the services that it wants the prison in question to deliver. The Superintendent, with assistance from a specialist tender team, would submit a tender to the Department detailing how they would deliver those services for the term of the Service Level Agreement. The terms of the Service Level Agreement would be based on the content of the tender document.

In the absence of a commissioning model, Service Level Agreements can be developed through formal discussions between the head office of the Department and Superintendents. These discussions will be informed by factors such as Departmental planning, developments in custodial practices, the available prison infrastructure and the objectives of the prison in question.

Neither of these two approaches will entirely replicate the tension of private negotiations. However, they will replicate aspects of private negotiations that will deliver benefits to the prison system.

5.6.4 Superintendents need to be empowered to achieve the expected outcomes

Service Level Agreements clearly delineate the roles and responsibilities of Superintendents from those in the Department.

Currently, Superintendents are not responsible for everything that happens within the confines of a prison. For example, Superintendents are not responsible for procuring or ensuring the efficient delivery of education or health services.

This may not lead to optimal education and health service outcomes because Superintendents are in control of resources (that is, prison officers) required for the efficient delivery of health and education services. In circumstances where there are insufficient prison officers to deliver all activities normally provided in a prison, Superintendents could potentially favour delivering the activities for which they are held accountable.

For example, if staffing levels fall below a set point (specified in negotiation with WAPOU) Superintendents have a choice between shutting down a unit (that is, locking everyone housed in that unit in their cell) to free up staff for activities (such as visits to the medical centre or education programs), or shutting down the other activities and keeping the unit open.

Superintendents have weaker incentives to ensure that services are delivered when they are not accountable for the delivery of those services.

Introducing Service Level Agreements that make the Superintendent responsible for the efficient operation of all activities within the prison will remedy this and will provide Superintendents with the incentives to ensure all services are provided efficiently within their prison.

²¹⁶ P. Rogers, 'Specification, Benchmarking and Costing of Electronic Monitoring (EM)', proceedings of the CEP Conference, 2011, Evora, Portugal.

²¹⁷ National Offender Management Service, 2010, *Service Specification for Services for Visitors – Service Specification Document*, p.6.

In part, this can be addressed by assessing the performance of Superintendents against benchmarks that measure aspects of these services that Superintendents can influence. This issue is discussed in detail in Chapter 6.

5.6.5 Incentives for good performance

Private prisons in Western Australia are subject to clear incentives to perform to a high standard. These incentives arise from the contracting process and the contracts themselves. Refer to Box 5 below.

Box 5 - Performance incentives for private prisons

The commercial environment in which private providers operate creates incentives for good performance. Providers that fail to perform to a sufficient standard have the potential to cost a private provider renewed contracts. This occurred in Western Australia when the Australian Integration Management Services Corporation (AIMS), the original operator of Acacia prison, lost the right to operate the prison after it was re-tendered. AIMS' "chequered performance"²¹⁸ was a significant contributing factor in the decision to re-tender Acacia at the end of the original five-year contract period.

Additionally, poor performance has the potential to cost private providers other contracts both locally and in other jurisdictions. These incentives are strongest when there is healthy competition for contracts.

There are also a number of incentives embedded into the specific contracts. Both the Acacia and Wandoo contracts contain performance-linked fees for the achievement of key performance indicators. If Serco meets the specified indicators, then it receives the full fixed fee. If it fails to meet its indicators, it receives a reduced fee.^{219,220}

Contracts also contain disincentives for poor performance. Specific events result in an abatement fee to be paid by Serco. Events that draw a fee include escapes, deaths by unnatural causes and failure to report or provide accurate information, among others.^{221,222}

Performance incentives are capable of improving performance across the public system provided the desired performance standards can be adequately observed and measured, and the benefit of any improved performance exceeds the cost of the performance incentive.

Superintendents of public prisons are not subject to the same clear incentives. However, this can be addressed through the introduction of Service Level Agreements, complemented by benchmarks. The ERA recommends that contracts with Superintendents (and potentially other senior prison managers) contain a clause that provides incentives for the successful delivery of the terms of their Service Level Agreement under the specified budget. This could include incentives for good performance or disincentives for poor performance. Incentives for a Superintendent performing well may include:

²¹⁸ Department of Justice, *Acacia Prison Services Agreement: Annual Report 2004-05*, Perth, Government of Western Australia, 2005, p. 7.

²¹⁹ Department of Corrective Services, *Acacia Prison Services Agreement Schedules and Annexures*, Perth, Government of Western Australia, 2006, p. 276.

²²⁰ Department of Corrective Services, *Wandoo Reintegration Facility Contract*, Perth, Government of Western Australia, 2012, p. 144.

²²¹ Department of Corrective Services, *Acacia Prison Services Agreement Schedules and Annexures*, Perth, Government of Western Australia, 2006, p. 117.

²²² Department of Corrective Services, *Wandoo Reintegration Facility Contract*, Perth, Government of Western Australia, 2012, p. 142.

- bonus payments to Superintendents;
- increased budgets for prisons (including retained revenue from prison industries, as discussed in Section 5.6.5.1); and
- decreased frequency of auditing or monitoring.

Disincentives for poor performance may include:

- employing an external management team to oversee part or all of the prison's operations;
- increased frequency of auditing or monitoring; and
- retendering the prison Service Level Agreement or contract.

The ERA notes that the Department will need to give consideration to whether incentives, particularly financial incentives, will be effective for prisons operated by the public sector. The use of financial incentives in the private sector, including Western Australian prisons, is well-established. However, financial incentives may not be as effective in the public sector. This is because public servants have different motives driving their performance than private sector employees.²²³ There is a risk that the use of financial rewards can be contradictory to the motives of public sector employees.²²⁴

The Department should review any incentive mechanism that it implements on a regular basis to ensure that it is having the intended outcome. In particular, the Department should ensure that any incentives are not undermining existing good performance within the prison system, including the high degree of cooperation exhibited between Superintendents across prisons.

In complement to financial incentives, there are alternative ways to encourage public prisons to perform to a high standard.

The ERA is of the view that Superintendents should be placed on fixed term contracts that align with the term of the Service Level Agreement of the prison for which they are responsible. Currently, Superintendents are permanent employees. Superintendents are generally Level 9 or Class 1 public sector employees. The ERA understands that there is discretion to appoint employees at these levels to either permanent or fixed term contracts. Placing Superintendents on fixed term contracts will allow for more effective performance management of any Superintendents that are not performing to the required standard.

The introduction of Service Level Agreements (with system wide benchmarking) and a commissioning model will introduce additional incentives for the public prison system to adopt a mindset of continual performance improvement.

5.6.5.1 Prison industries

The ERA considers that there is likely to be scope to improve the performance of industries in public prisons by clarifying the objectives of prison industries and improving the incentives of Superintendents to ensure that industries operate efficiently. In this section, the ERA:

- describes prison industries and comments on the existing objectives of prison industries; and

²²³ James L. Perry, *Measuring public service motivation: as assessment of construct reliability and validity*, Journal of Public Administration Research and Theory 6, 1996, no. 1: 5 – 22.

²²⁴ S. Woolhandler, D. Ariely and D. Himmelstein, *Will pay for performance backfire? Insights from behavioural economics*, Health Affairs Blog, 2012.

- discusses how to incentivise better rehabilitation and financial outcomes from prison industries.

Existing objectives of prison industries

Both public and private prisons in Western Australia operate industries. Prison industries provide an opportunity to engage prisoners in purposeful activity. Generally, prison industries involve employing prisoners to produce goods and services for consumption either inside or outside of the prison system. Examples of prison industries operating in Western Australia include laundries, textile and clothing production, timber and joinery, metal fabrication, baking, horticulture, and farming.

The primary objective of prison industries is to improve the rehabilitation outcomes of prisoners. This objective is established under Section 95(2) of the *Prisons Act 1981*, which states that services and programs (including prison industries) must be designed and instituted with the intention of achieving a range of rehabilitation outcomes, including:

- enabling prisoners to acquire knowledge and skills that will assist them to develop a law abiding lifestyle on release;
- providing opportunities for prisoners to utilise their time in prison in a constructive and beneficial manner by means of educational and occupational training programs and other means of self-improvement; and
- assisting prisoners to integrate into the community on release.

Prison industries aid prisoner rehabilitation by helping them develop general work skills and specific trade skills, which improve their chances of gaining employment upon release and lessen the risk of reoffending.²²⁵

A secondary objective of some prison industries is to achieve self-sufficiency within the prison system.²²⁶ Self-sufficiency is a policy objective of the Department, rather than an objective established under the *Prison Act 1981*. The Department states self-sufficiency in areas of primary produce, catering, laundry and clothing can reduce the cost of imprisonment.²²⁷

The ERA notes that each prison industry will have an opportunity cost²²⁸ in terms of time and money. By time, the ERA means the time prison officers and other prison staff spend operating prison industries as opposed to undertaking other productive prison activities. The ERA is also referring to the time prisoners spend engaged in industries as opposed to being engaged in other rehabilitation activities. By money, the ERA means financial investment by a prison in establishing and operating a prison industry, as opposed to investing in another activity or other goods and services.

In deciding whether to continue an existing, or develop a new prison industry, the Department and prisons will need to assess whether better rehabilitation and financial outcomes can be achieved within the prison system by investing time and money in other ways.

²²⁵ Queensland Corrective Services, *Prison Industries*, Queensland Government. http://www.correctiveservices.qld.gov.au/Publications/Corporate_Publications/Miscellaneous_Documents/PrisonIndustries.pdf (accessed 1 October 2015).

²²⁶ Department of Corrective Services, 'Prison industries', <https://www.correctiveservices.wa.gov.au/rehabilitation-services/prison-industries.aspx> (accessed 24 September 2015).

²²⁷ Department of Corrective Services, *Department of Corrective Services Annual Report 2013-14*, Perth, Government of Western Australia, 2014, p. 16.

²²⁸ The opportunity cost of an item is whatever must be given up to obtain that item. Source: N. Mankiw, *Principles of Microeconomics 7th Ed*, Stamford, Cengage Learning, 2015, p. 6.

The ERA considers that it is appropriate that rehabilitation is the primary objective of industries. Rehabilitation is the primary objective of the prison system and so it is therefore appropriate that rehabilitation is the primary objective of individual activities within the prison system (including industries). However, prison industries should not be pursued simply because they may generate some rehabilitation outcomes. Industries should only be pursued if they will result in the best rehabilitation outcomes for a particular level of investment in time and money. If not, the Department should consider investing in other, non-industry, rehabilitation activities that will achieve better outcomes (including for example, evidence-based programs).

The ERA considers that there is less merit in the self-sufficiency objective. The ERA understands the appeal of the self-sufficiency objective in terms of potential cost savings to the prison system and providing meaningful activity to prisons. However, the ERA considers that there is a possibility that claimed benefits of these industries are not being achieved in practice and self-sufficiency may be being prioritised over alternative activities that may achieve better rehabilitation and financial outcomes. The ERA has several reasons for this opinion.

Firstly, it is possible that it will be less expensive for the Department to purchase goods and services from external providers than to produce goods and services in-house through industries. The ERA understands that the Department has not undertaken a rigorous comparison of the cost of self-sufficiency (that is, the cost of producing rather than buying). For example, the Western Australian prison system is 100 per cent self-sufficient in the supply of milk, eggs and processing red meat and 70 per cent in fruit and vegetable requirements.²²⁹ However, the ERA understands that the Department is uncertain how much it costs to produce these goods. Without this knowledge, the Department is unable to determine whether it is able to produce these goods at a lower cost than if they were purchased externally.

The ERA acknowledges that it may be possible to justify paying a higher price for goods and services produced through prison industries (compared to the price of purchase from external providers) to reflect the rehabilitation benefits achieved for prisoners. However, again, the Department has not undertaken sufficient analysis to determine the extent of rehabilitation benefits being achieved from prison industries focussed on self-sufficiency and cost of these benefits.

Furthermore, it is not clear that prison industries focussed on self-sufficiency will necessarily achieve good rehabilitation outcomes, including in terms of providing future employment opportunities for prisoners. For example, public prisons in Western Australia operate agricultural and horticultural industries. Prisoners participating in these activities will develop skills specific to these industries, as well as general work skills that can be applied in any employment situation. The majority of prisoners in Western Australia originate from the Perth metropolitan area.²³⁰ It is expected that on release, these prisoners will return to the Perth metropolitan area. Agricultural and horticultural skills are not highly demanded in metropolitan areas and it is unlikely that the skills learned while participating in these industries will aid metropolitan prisoners in securing employment on release. For these prisoners, the rehabilitation benefits of participating in prison industries may be limited to the acquisition of general work skills, which are of course valuable.

An additional argument against the self-sufficiency objective is that the Department and prisons may pursue self-sufficiency at the expense of alternative industries that could

²²⁹ Department of Corrective Services, *Department of Corrective Services Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p. 50.

²³⁰ The ERA has been provided data by the Department on the number of prisoner receptions by region. The ERA has assumed that the area in which prisoners are received into the prison system generally represents the area in which the prisoner resides.

achieve better financial returns, or come at a lower financial cost, for the prison system, but which do not achieve the self-sufficiency objective.

For these reasons, the ERA considers that the Department should undertake a rigorous cost-benefit analysis of all prison industries, particularly those that are focussed on self-sufficiency, to ensure that the benefits outweigh the costs. Prison industries should only be pursued where it can be demonstrated that the benefits outweigh the costs, and the net benefits exceed those of alternative activities.

Incentivising better rehabilitation and financial outcomes from prison industries

The Department should put in place incentives to maximise the rehabilitation and financial outcomes generated by industries operated in public prisons.

There are material differences in the manner that industries are operated in the private sector and how they are operated in the public sector. Acacia prison has a well-developed industries program and incentives to ensure it operates efficiently.²³¹ Similar incentives for efficient operation of prison industries are not present in public prisons.

For private prisons, the process of tendering creates an environment that encourages each participant in the process to submit their most efficient tender. The more efficiently a bidder can operate its industries, the more likely it is to be able to offer a competitive tender, and therefore increase the likelihood of the tender being successful.

Public prisons do not experience the same competitive pressure as private prisons to ensure that the prison industries operate efficiently. One way to ensure efficient operation of prison industries could be through the introduction of a commissioning process (as discussed in more detail in Chapter 8). It is not practical or optimal for all public prisons to be subject to commissioning, nor is it the only way to introduce incentives for greater efficiency in public prison industries.

Currently, Superintendents of public prisons have few incentives to improve the efficiency and performance of their prison industries, or to introduce new industries. This is because revenue generated by industries is returned to the Department, rather than being retained by Superintendents for use within their prison.

The ERA considers that Superintendents would have stronger incentives to improve the efficiency of prison industries and commence new industries if they could retain a portion of *any additional* revenue generated by efficiency improvement for use within their prison. This revenue could be used to improve the operations of the prison or the working environment.

Encouraging Superintendents to operate more efficient industries will also benefit the Department because the Department would also retain a portion of any additional revenue generated by efficiency improvements.

Some stakeholders expressed concern, in submissions to the Draft Report, that allowing Superintendents to adopt a more commercial approach to prison industries may come at the expense of rehabilitation outcomes for prisoners. However, the ERA considers that rehabilitation should remain the primary objective of prison industries. Commercial gains for the prison system should not be prioritised over rehabilitation outcomes.

The ERA notes that prison industries have not been considered to be significant business activities for the purposes of National Competition Policy, because the primary aim of prison industries is rehabilitation.²³² Therefore, prison industries have not been subject to

²³¹ While complying with its obligations to remain competitively neutral.

²³² Council of Australian Governments, *Competition Principles Agreement*, Canberra, 2007, section 3.(1).

competitive neutrality obligations specified as part of the National Competition Policy.²³³ However, the Department has established a Prison Industries policy, which it applies to ensure that prison industries operate in a competitively neutral manner.²³⁴

5.7 Recommendations

The ERA recommends that:

- 1) The Department of Corrective Services introduce Service Level Agreements to all public prisons and make these agreements publicly available through its website.
- 2) The Department of Corrective Services be required to report annually to Parliament on the performance of each prison in Western Australia against the standards set out in the relevant Service Level Agreement.
- 3) The Department of Corrective Services undertake a program of service specification and costing for the prison system.
- 4) The Department of Corrective Services introduce performance incentives for Superintendents of public sector prisons.
- 5) The Department of Corrective Services introduce fixed term contracts for Superintendents that align with the term of the Service Level Agreement applied to the prison they are responsible for managing.
- 6) The Department of Corrective Services undertake a rigorous cost-benefit analysis of prison industries. The Department should only continue these industries where it can be demonstrated that the benefits outweigh the costs and the net benefits exceed those of alternative activities.
- 7) The Department of Corrective Services introduce a revenue sharing arrangement to allow Superintendents to retain a proportion of additional revenues generated by efficiency improvements from industries in their prison for use on specified activities within their prison.

²³³ Competitive neutrality ensures that the significant business activities of publicly owned entities compete fairly in the market. It is about transparent cost identification and pricing in a way that removes advantages arising from public ownership.

²³⁴ Department of Corrective Services, *Policy Directive 56: Production and Sales of Goods, Products, and Services from Prison Industries*, Perth, Government of Western Australia, 2010.

6 Performance benchmarks

6.1 Introduction

The Terms of Reference for this Inquiry require the ERA to develop and calculate a set of benchmarks for prisons. It is intended that the Department would use the benchmarks to assess and compare the performance of individual prisons in Western Australia and identify areas for improvement.

In identifying a set of performance measures for benchmarking, the ERA has considered the areas of prison performance that should be measured, the characteristics of good performance measures and the measures currently used in Western Australia and other jurisdictions (nationally and internationally).

The ERA considers that there are four areas of prison performance that should be measured.

- *Safety and security* – Prison operators are effective in preventing escapes that can pose a threat to community safety, and prison staff and prisoners are safe from harm.
- *Rehabilitation* – Prison operators make a positive contribution to the rehabilitation of prisoners in their care to decrease the likelihood that they reoffend upon release. Effective rehabilitation of prisoners leads to improved community safety, and savings for the Government in providing prison and other public services (such as law and order, health and welfare).
- *Prisoner quality of life* – Prison operators should treat prisoners humanely and decently, reflecting that this leads to better outcomes in prisoner rehabilitation and safety and security, and recognising that prisoners are held against their will.
- *Prison management* – Prison operators deliver prison services as efficiently as possible to ensure that public funds are not wasted.

These areas of prison performance are consistent with the mission of the Department, which focusses on Security, Safety of Staff, Safety of Prisoners and Rehabilitation.

The ERA has identified a set of performance measures for each of the four categories that meet the following principles of good benchmarking.

- The prison operator must be able to influence the performance measure used.
- It must be possible to accurately and reliably measure the benchmark.
- The performance measure must not encourage perverse behaviour.

The ERA considers that it is not possible to directly compare the performance of different prisons based on unadjusted performance data. This is because of fundamental differences between prisons in terms of their characteristics and roles in the prison system.

In this Final Report, the ERA has designed a system of benchmarking that will allow the Department to compare the performance of individual prisons. The ERA has recommended a weighted scorecard approach involving the publication of a 'league table' of prisons based on: each prison's grade against benchmark targets that reflect the expected performance of individual prisons; and weightings assigned to performance measures and performance categories that reflect the Department's priorities for the prison system. Similar approaches are applied in other jurisdictions, most notably in New Zealand and the United Kingdom.

Under this approach, the ERA has proposed that benchmark targets be adjusted to reflect differences in the composition of each prison's population. In particular, the ERA has

proposed that the Department adjust benchmark targets to reflect differences in the security classification (that is, maximum, medium and minimum-security), sentence status (that is, remand or sentenced) and gender of the populations of individual prisons.

The Department will be responsible for determining the relative weights to be assigned to performance measures and performance categories. The ERA has provided guidance on how these weights should be set, including that they be consistent with the overall priorities of the Department.

The Department will be responsible for assigning a grade to each prison. A prison's performance grade will be based on its performance against its targets for individual performance measures and the weights assigned to those performance measures and the four performance categories.

Due to constraints with the data systems and resourcing of the Department, the ERA has only been able to calculate benchmark targets for four performance measures. Despite the best efforts of the Department and the ERA, the Department could not provide the data the ERA requires to calculate benchmark targets for all 26 performance measures. This is because the data is either: not currently available; is not available in the granularity required to implement the ERA's population-adjusted approach to target setting; or because the accuracy of data could not be guaranteed.

The ERA understands the Department is currently working to address these issues through staff recruitment and a review of its data systems. The ERA considers that this recruitment and review should be given priority. This will ensure that the Department is able to provide timely and accurate data to calculate benchmarks in the future.

The ERA has also provided data on the performance of prisons in Appendix 5.

This chapter includes:

- a summary of submissions in response to Chapter 6 of the Draft Report and the ERA's response to those submissions;
- a discussion of the areas of prison performance that should be measured;
- a discussion of how to compare the performance of prisons, including setting benchmark targets and constructing a weighted scorecard;
- a discussion of the rationale behind selecting each performance measure; and
- a discussion of whole of Department performance measures.

6.2 Summary of submissions on the Draft Report and ERA response

The ERA received submissions from stakeholders in response to the Draft Report on the following topics related to benchmarks:

- preconditions for benchmarking;
- the limitations of benchmarks;
- the cost and complexity of constructing benchmarks;
- weighting benchmarks and comparing prison performance;
- comparing the costs of public and private prisons;
- health and mental health benchmarks; and
- prison utilisation rates.

In the following sections, the ERA provides a summary of the submissions from stakeholders on each of these topics and the ERA's response.

6.2.1 *Preconditions for benchmarking*

Dr Toner states that benchmarking presumes measures that standardise all of the following:

- the definition of prison services;
- inputs to, and outcomes, of prison services;
- the cost and quality of these services; and
- the contribution of each of these services to achieving the objectives set for individual prisons and the wider prison system.

Dr Toner further submits that benchmarks must also control for differences in prison characteristics that cause differences in the type of service, their costs and achievement of the objectives set for individual prisons and the wider prison system.

Dr Toner considers that even if it were possible to develop such benchmarks, it would only be warranted if two conditions are met: the Department must be able to fully control all inputs of the prison system; and the Department must also fully control expected outputs (such as improvement rates in recidivism and rates of efficiency improvement). Dr Toner submits that neither of these conditions apply and believes that, as a result, the Department will be responsible for a system it cannot control. Dr Toner concludes that under these circumstances, benchmarks and performance standards act not to drive improvements, but simply to quantify the gap between expectations and reality.

Dr Toner states that performance targets and benchmarks are important for organisations. Dr Toner considers this is true if the setting of these targets and the data collection are both feasible and useful. Dr Toner considers the sheer complexity and unrealistic ambition of the ERA's proposal means they are neither feasible nor useful.

Dr Toner submits the ERA identifies the problem of the trade-off between cost and quality in prison services, but the ERA abandons the issue because of the difficulties of constructing, for example, quality-adjusted indexes of prison inputs and outputs.

Dr Toner submits that to be of analytical use, the ERA performance measures and benchmarks have to solve three quantitative problems:

- precisely define the prison services that contribute to achieving the four objectives of the prison system;
- rigorously establish the relationship between the quantity and price of each prison service and the extent to which it contributes to achieving prison objectives; and
- complete these tasks for all sixteen Western Australian prisons.

6.2.1.1 *ERA response*

The ERA has sought to recommend performance measures that are within the control of the Department or individual prisons. The performance measures recommended for individual prisons are limited to include only those areas that Superintendents are able to exert significant influence. Likewise, the performance measures recommended for the Department as a whole are those that the ERA (and the Department)²³⁵ considers the Department has considerable influence over. Some of these performance measures, such

²³⁵ Many of the benchmarks included are already reported by the Department of Corrective Services.

as those related to recidivism, may not be entirely under the control of the Department, but the Department is capable of significantly influencing these outcomes and is in the best position to monitor performance in this area.

The ERA considers, based on consultations with the Department, that the recommended approach to benchmarking is both feasible and useful.

The ERA agrees with Dr Toner that the Department needs to undergo a process of defining the services delivered in prisons that contribute to achieving objectives and the price and quantity of those services in each prison. This is addressed in Section 5.6.3, which discusses the merits of conducting service specification and costing analysis.

The ERA noted in its Draft Report that the Department's data processes are in need of improvement (see Chapter 7). Accordingly, the ERA has recognised that some of the performance measures that it has recommended cannot currently be implemented.

6.2.2 *Limitations of benchmarks*

The CPSU/CSA submits that benchmarks should not replace meaningful discussion between key decision-makers within the prison system because of limitations on the usefulness of benchmarks, which include the following.

- The high degree of variability amongst individual prisons in the Western Australian prison system, which make comparison of prison performance difficult.
- Benchmarks are aggregates and snapshots only and are unlikely to capture other essential information that explain the efficiency and performance within a particular prison.

The CPSU/CSA and Professor Podmore also note that benchmarks may introduce perverse incentives if incentives or consequences for performance are not properly aligned. They consider the introduction of benchmarks may lead to prison managers strategically engaging in activity to optimise the appearance of efficiency and performance and thereby optimise any incentives, rather than focussing on the functional performance of the prison.

Professor Podmore notes benchmarking can be susceptible to corrupt influences, citing issues with benchmarks for random drug testing. He notes that random drug testing does not test for legal highs, is susceptible to corruption and can result in prisoners switching from less harmful drugs (such as cannabis) that stay in the system for 14 days, to more harmful drugs that do not stay in the system (like heroin). He added that there is no evidence to suggest that random drug testing is a true measure of drug use and harm in a prison setting, although it is regularly used as a tool for such. Professor Podmore concludes that true measures of illicit drug use are important but need to be underpinned by a range of measures such as a comprehensive anti-corruption policy addressing serious and organised crime in prisons.

Professor Podmore submits that there is a further danger that benchmarking develops and promotes the mediocre rather than develop the exceptional. He considers that there is no evidence of the transfer of best practice in such an approach, rather a culture of self-protection because of tick-box and league table comparisons.

6.2.2.1 *ERA response*

The ERA agrees with the CPSU/CSA that benchmarking should only be one component of discussions between the Department and Superintendents about the performance of individual prisons and the system more generally. This is discussed in more detail in Section 6.5 on the limitations of performance benchmarking.

The ERA recognises the risk that benchmarking can introduce perverse incentives. The ERA has sought to manage scope for introducing perverse incentives in its selection of performance measures and by differentiating between measures that should be reported on as performance measures and measures that should be reported on as management information.

Performance measures used for benchmarking should measure components of prison performance that are unambiguously good or bad. For example, a reduction in rates of prisoner self-harm is unambiguously good. Efforts by Superintendents and their staff to positively influence performance measures will improve the functional performance of prisons and should be encouraged.

Measures that are identified as management information measure components of prison performance that are not unambiguously good or bad, but are nevertheless important for the good management of prisons. The rate of workers' compensation claims is one such measure. Superintendents need to have good information on the rate at which prison staff are being injured in the course of their work so that appropriate measures can be put in place. However, rates of workers' compensation claims should not be a performance measure because it may, for example, introduce a situation where Superintendents seek to discourage prison staff from claiming workers' compensation when it is required. This would represent a perverse incentive.

The ERA does not consider that random drug testing is the only method that should be used for reducing drug use in prisons. The Department has a number of processes in place to limit drug use in prisons. The inclusion of random drug testing as a performance measure is designed to measure the effectiveness of Superintendents in implementing these processes. While literature does highlight some shortcomings in random drug testing, it is widely used in prison systems around the world.²³⁶

Depending on the method for setting benchmark targets, the incentives that the targets pose to prisons will differ. Ultimately, the method selected reflects the desired outcome from the benchmarking exercise. This is discussed in detail in Section 6.4.1, which discusses approaches to setting benchmark targets.

6.2.3 Cost and complexity of constructing benchmarks

Professor Podmore submits that benchmarking would generate a whole new bureaucracy of its own, but the costs of introducing benchmarking do not feature in any financial analysis conducted by the ERA.

Professor Podmore considers that internal benchmarking by the Department would duplicate the role of the Office of the Inspector of Custodial Services. He believes it is necessary for the ERA to explain the rationale, which will impose additional cost on the prison system and a burden on prison staff to represent themselves to two 'auditors'. Professor Podmore expresses concern that there is clearly a danger that prison Superintendents and their staff will be inundated by measures of performance and scoring systems and spend all their time being measured and not dealing with prisoners.

6.2.3.1 ERA response

The Department already produces performance measures and management information for a range of purposes. These include the preparation of State Budget Papers, Annual

²³⁶ Random drug testing is a performance measure for public and private prisons in Western Australia, New Zealand and the United Kingdom.

Reports, the *Report on Government Services*, and internal management purposes (for example, quarterly performance reports²³⁷). The ERA has sought to define measures to align with existing measures, where it has been appropriate to do so, to minimise the amount of effort required by the Department to report on benchmarks.

The performance measures and management information recommended by the ERA would likely be incorporated into the quarterly performance reporting that is already undertaken by the Department. As such, the performance reporting recommended by the ERA would not represent an entirely new process that the Department has to undertake.

Some Departmental staff have indicated to the ERA that additional staff resources may be required to ensure that benchmarks can be produced in a timely manner. However, this staffing requirement is a reflection of the current resourcing of the Department, not the extra requirements imposed by performance benchmarking.

There are issues with the Department's current data systems that limit the Department's ability to provide data required for benchmarking. The ERA understands the Department is in the process of reviewing its data systems and recruiting skilled staff in this area. This issue is discussed in greater detail in Section 6.4.5 and in Chapter 7.

6.2.4 Weighting and comparing prison performance

Several submitters question the appropriateness of weighting categories of performance and individual performance measures within categories to facilitate comparisons of performance between individual prisons. These submitters are WAPOU and its two consultants, Professor Podmore and Dr Toner.

Professor Podmore considers that the concept of 'weighting' scores in the process is highly subjective with no scientific basis. WAPOU considers that the Department cannot apply weights without bias or value judgements. WAPOU anticipates that the Department will give priority to the prison management category (which WAPOU interprets as being related to cost cutting). WAPOU considers the purpose of the ERA's Inquiry was to find ways to cut costs above all else, despite the token acknowledgement the ERA gives to the need to avoid this.

WAPOU considers it is likely that if the ERA's proposals go ahead, the objective of efficiency and dollar savings will be privileged over the objectives of safety and rehabilitation, and that weighted scorecards and the structure of Service Level Agreements would naturally be influenced by that preferencing. WAPOU submits that the proposed system is not capable of enshrining the objectivity that is implied.

WAPOU considers that safety and quality are implicitly accorded a lower value by the ERA to prison management. WAPOU notes a statement by the ERA indicating that performance measures under the prison management category can be designed to measure poor staff culture (including performance measures for workers' compensation claims, personal leave use and overtime). WAPOU considers that the ERA makes it clear that this is viewed as an attitudinal problem of staff rather than a reflection of a dangerous and difficult workplace. WAPOU believes these indicators are designed to identify problems with financial cost and lost productivity, not because of concern for staff welfare.

WAPOU and Professor Podmore consider that lower priority accorded to quality of prisoner life category is also evident in the ERA's Draft Report, because the ERA has noted the resource intensity of conducting the Measuring Quality of Prison Life (MQPL) survey and suggested that it not be used on a regular basis. WAPOU considers this to be an overt

²³⁷ Although, the ERA understands that the Department is not currently producing quarterly performance reports.

declaration that costs are more important than quality and human rights. Professor Podmore considers that MQPL does have a sound statistical and evidence base and is an exceptionally good tool for comparing prisons, components within prisons and all of them over time.

The same submitters also dispute the possibility of conducting benchmarking that controls for differences in prisons.

Professor Podmore states that benchmarking is in essence an attempt to standardise a system that consists of highly complex variables. He considers that it might be possible to standardise some components across two or three Western Australian prisons, but it would be better to concentrate on the uniqueness of each establishment and manage and monitor it accordingly.

WAPOU notes that Western Australian prisons and the prisoner populations within those prisons are very diverse and that the ERA's proposal for how to accommodate this diversity is insufficient. WAPOU considers standardisation has some merit, but not at the cost of ignoring real differences that prevent accurate assessments and good systems from being applied.

Dr Toner considers that the weights proposed by the ERA do not control for differences in the ability of prisons to achieve these weighted metrics and thus do not control for the efficiency with which different prisons can achieve their objectives.

Dr Toner notes that the ERA's fall-back position is that it is possible to set targets for different prisons to inform a high-level comparison, which ignores the multiplicity of methodological problems. He states that a 'near enough is good enough' approach is not good enough.

6.2.4.1 *ERA response*

The ERA notes the substantive points raised by submitters in relation to weighting and comparing prison performance, which cover:

- the weighting of performance measures; and
- prioritisation of performance measures.

The ERA addresses each of these issues below. The ERA also comments on recommendations in the Draft Report that have subsequently been expanded or changed in the Final Report.

Weighting performance measures

The ERA considers that the adoption of weights for performance measures and categories will allow these measures to better reflect Government policy and the Department's priorities. This weighting exercise is therefore best conducted by the Department.

However, the ERA agrees that there is a potential conflict of interest inherent in this process. For example, the Department may set weights that result in prisons receiving a higher grade to give the perception of higher performance even when real performance may not have changed. Additionally, if the Department places greater weight on security over rehabilitation, or on prison management over the other categories it may result in high grades for prisons that are not performing well against objectives that stakeholders consider most important. The ERA has considered this risk in making its recommendations, and discusses the merits of the weighted scorecard approach in more detail in Section 6.4.2.

Prioritisation of performance measures

With regard to comments addressing the prioritisation of performance measures recommended in the Draft Report, the ERA does not place a lower priority on safety and

quality compared to other categories. The ERA considers safety and quality of prison services to be a high priority of the prison estate. While the proposed indicators in the prison management category are designed to measure productivity in prisons, the other three categories are designed to measure quality of service.

Additionally, the smaller number of measures included in the prisoner quality of life category reflects there being fewer feasible and unbiased measures in this area. This does not reflect a view that prisoner quality of life is relatively unimportant. In this Final Report, the ERA has considered alternative measures that can enhance prisoner quality of life, resulting in recommendations to improve the quality of interactions between prisoners and prison staff. This is discussed in Section 6.8.3.

The ERA does recognise the value of the MQPL, but considers that to conduct this survey with the same frequency as the other performance measures would be prohibitively costly, and that staff time could be better used in other ways that would be more beneficial for prisoners. While the MQPL should be regularly monitored, it would not be useful to do so in every quarter.

Changes and additions to the recommendations made in the ERA's Draft Report

In completing this Final Report, the ERA has reviewed the recommended performance measures and removed many of those relating to staff leave. The ERA considers that the Department should continue to monitor these measures (as they are important management information), but they should not be included in the benchmarking process.

The ERA has also, as indicated in the Draft Report, progressed its work on setting benchmark targets for each prison. This analysis and the ERA's recommendations are provided in Section 6.6. The ERA considers that setting targets for individual prisons in this method will account for the differences in prison populations that significantly affect a prison's performance. This will allow the Department to make a reasonable comparison of the performance of individual prisons.

6.2.5 Comparing costs of public and private prisons

Dr Toner, and Andrew *et al* raise issues about the practical difficulties and appropriateness of constructing benchmarks to compare the cost of operating individual prisons.

Dr Toner considers that it is not possible to develop cost benchmarks because of the high variability in cost per prisoner per day, driven by differences in the prison population, prison design and age, and prison location. He considers that it is not possible to directly compare prison performance without adjusting for these factors.

Andrew *et al* consider that it is ineffective to compare low cost services provided by private prisons with the high costs services provided by public prisons through simple measures like cost per prisoner per day. Andrew *et al* submit that the two private facilities (Acacia and Wandoo) are significantly different from most prisons in the State because neither houses maximum-security or remand prisoners. Andrew *et al* conclude that both factors contribute to greatly higher costs for prisons.

Andrew *et al* also submit that if comparisons are to be made between prisons, benchmarks need to incorporate the cost of external private contracts and overheads need to be clearly allocated. Andrew *et al* believe costs and benefits from geography, security classification, age of facilities and organisational lay out of prisons also need to be taken into account.

6.2.5.1 ERA response

The ERA agrees with submitters that cost per prisoner per day is an inappropriate measure of prison performance, particularly in Western Australia where few, if any, prisons are

directly comparable. As discussed in Chapter 3, this measure has been removed from the ERA's list of recommended performance measures.

However, the ERA does consider that per prisoner per day (on both a system wide and individual prison basis) provides important information to both management and stakeholders as to cost drivers, and the outcomes of investment and policy decisions. As such, it is appropriate that this information be disclosed in a transparent and accessible manner. In Chapter 3 and Chapter 7, the ERA discusses the transparent disclosure of cost information (including calculation methods and treatment of individual cost components).

6.2.6 Health and mental health benchmarks

WAAMH makes comments on health and mental health benchmarks.

WAAMH strongly supports the introduction of benchmarks, particularly those for occurrences of serious self-harm or attempted suicide, unnatural deaths including suicide and prisoner health management on release.

However, WAAMH expresses concern that the ERA expects Superintendents to be almost solely responsible for the security and safety of their prisons. WAAMH submits the provision of health care (including mental health) is a head office responsibility and has a significant effect on safety and security (for example, through prison disturbances caused by the symptoms of mental illness and assaults on staff and prisoners). WAAMH is concerned that there is too much emphasis on prisons as separate units to the Department of Corrective Services. WAAMH believes correspondingly strong performance measures are required at a Departmental level.

WAAMH is also disappointed about the extent to which mental health is addressed through performance measures. WAAMH notes that the ERA has included performance measures relating to physical and mental health that the Department should aspire to measure in time. WAAMH does not consider the lack of assessments and data to be a sufficient reason not to have solid performance measures in these areas. WAAMH recommends that the aspirational performance measures be required because the best way to achieve data collection would be to require it.

WAAMH recommends that the ERA's Final Report include whole of Department performance measures on uniform identification of mental health needs at prison entry and other key points during imprisonment and on access to quality, contemporary mental health care.

WAAMH notes that one of the performance measures suggested by the ERA relates to the proportion of prisoners with chronic disease, substance dependency or mental health issues that are provided with a relevant medical discharge plan *prior to release*. WAAMH considers the ERA makes no corresponding performance measure for a medical or health plan to address their needs *during* imprisonment.

6.2.6.1 ERA response

The ERA considers that robust assessment processes and good data are required to measure performance, and notes that the Department does not currently have the data necessary to implement some of the ERA's recommended performance measures. In the Draft Report, the ERA took the approach of listing measures for which data was currently unavailable as 'aspirational benchmarks'. The ERA has revised this approach in this Final Report, and does not make a distinction between aspirational and recommended performance measures.

Where the Department is currently unable to report on a certain measure, the ERA has provided the reasons for this lack of data. The ERA considers that the Department should

implement the data collection requirements as soon as practicable, to allow it to report against all recommended performance measures. The ERA considers that implementing the recommended benchmarks addressing the mental health of prisoners will improve the quality of service that prisoners receive during their imprisonment.

In relation to the ERA's emphasis on mental health benchmarks for individual prisons, the ERA does recognise that the provision of mental health services is ultimately the responsibility of the head office of the Department. However, the ERA also recognises that prison staff and Superintendents have a significant role in helping to address mental health concerns. For instance, prison officers are able to monitor prisoner behaviour on a day-to-day basis to ensure safety and refer prisoners to health services when necessary. Prisons also have the responsibility to ensure that prisoners are able to attend their appointments, and that any concerns raised to prison officers are passed through to health services. The breakdown of responsibilities for Departmental head office and Superintendents for health services are set out in Table 2 of Chapter 3.

6.2.7 *Prison utilisation rates*

Both the CPSU/CSA and WAPOU express concern about the use of the total capacity measure of prison utilisation used by the Department of Corrective Services. In particular, both express concern that the total capacity measure relies on double bunked beds to cover the current prison population.

WAPOU notes there is a series of national and international standards that should apply to the provision of prisons in Western Australia, including the Standard Guidelines for Corrections²³⁸ and the United Nation's Standard Minimum Rules for the Treatment of Prisoners.²³⁹

WAPOU considers that the vast majority of cells that have been double-bunked by the Department were never designed for more than one person and fail to meet these guidelines and standards. WAPOU submits the cells are too small, do not have appropriate discretion for ablutions and may not have appropriate ventilation and airflow. Therefore, WAPOU considers that utilisation of these cells for double bunking should only be temporary, as was intended under the original definition of operational capacity.

WAPOU considers that design capacity is the only way to determine utilisation rates as it establishes the capacity of the facility in compliance with national and international standards. WAPOU submits that either a cell was built to house one person in line with United Nations and Australian standards or it was not.

WAPOU submits that failure to provide adequate capacity for all prisoners within design capacity could have severe long-term consequences for the community, staff and prisoners. Negative effects can occur through heightened tension, greater risk of assaults and self-harm, and increased workplace stress and pressure (leading increased personal leave and workers' compensation claims). WAPOU states that overcrowding also prevents prisoners from receiving education, training and therapeutic programs. WAPOU points out that this can have a negative effect on the number of prisoners released on parole and may lead to increased rates of reoffending, both of which can contribute to increased prison populations.

²³⁸ Australian Correctional Administrators, *Standard guidelines for prison facilities in Australia and New Zealand*, Melbourne, Vic. Office of Corrections, 2012.

²³⁹ *Standard Minimum Rules for the Treatment of Prisoners*, adopted by the First United Nations Congress of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957.

6.2.7.1 ERA response

The ERA acknowledges the concerns of CPSU/CSA and WAPOU about the use of total capacity as a measure of prison capacity in Western Australia. The ERA agrees with WAPOU that design capacity is a more appropriate measure of prison capacity. This is discussed in more detail in Section 6.8.1.

6.3 Identification of prison performance measures

The ERA has identified four categories of prison performance that should be measured in benchmarking. These categories are safety and security, rehabilitation, prisoner quality of life and management. Each category represents an outcome that a good prison should deliver.

The specific measures contained in the safety and security category should reflect the need for:

- Prisoners and staff to be safe, with assaults and work accidents minimised.
- Community safety to be maintained (that is, prisons need to be secure, preventing escapes).
- Disorder to be minimised, allowing prisoners to attend education, work and programs and staff to continue with their work.

The second category, rehabilitation, reflects the need for prisons to make every effort to rehabilitate prisoners in their care to decrease the likelihood that they offend upon release. If prisons are able to effectively rehabilitate prisoners, it leads to improved community safety, and savings for the Government in providing prison services, as well as other public services such as law and order, health and welfare.

Prisoner quality of life reflects that decent prison conditions can lead to better outcomes in prisoner rehabilitation and safety and security.²⁴⁰ Ensuring prisoners are treated decently also recognises that prisoners, who have been denied their liberty, should be treated as humanely as possible.

The final category, prison management, is designed to assess whether prisons are offering value for money to taxpayers. That is, prisons should be delivering outcomes in safety and security, rehabilitation and prisoner quality of life as efficiently as possible to ensure that public funds are not wasted.

Performance categories have been selected to align with the Department's objectives and the commonly cited objectives of prisons more broadly. These objectives have previously been discussed in Chapter 3.

The ERA has sought to select specific performance measures in each category that meet principles of good performance benchmarking. These key principles are:

1. The prison Superintendent must be able to influence the prison's performance against each measure.
2. It must be possible to accurately and reliably measure the benchmark.
3. The performance measures must not encourage perverse behaviour by prison operators.

²⁴⁰ Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, Perth, Government of Western Australia, 2014, p. ii.

In doing so, the ERA has adapted measures that are in place either in Western Australia or in other jurisdictions, or developed measures that are specific to Western Australia.

The following sections outline the ERA's reasoning behind selecting performance measures in each of the four categories.

6.3.1 Safety and security

The performance measures included for safety and security are linked to the objectives of the Department, which focus on ensuring the safety of the community, prisoners and prison officers. Community safety is measured through measures of the security of the prison, such as prisoner escapes or unlawful releases. Prisoner safety is reflected in measures of assaults, self-harm and incidents of loss of control. Assault measures are extended to include prisoner-on-staff assaults reflecting the importance of prison officer safety.

Superintendents are almost solely responsible for the security and safety of their prisons. Therefore, measures can focus on the issues that are the most evident measures of prison safety and security. The measures recommended in this category are consistent with the measures currently used, and those used in other jurisdictions.

6.3.2 Rehabilitation

The performance of individual prisons in rehabilitating prisoners is difficult to measure. Ideally, a prison's performance in this area would be measured in the recidivism rate of the prisoners that it releases. However, prison Superintendents have little control over many of the factors that contribute to a prisoner reoffending. As a result, Superintendents should not be held accountable for the rate of recidivism amongst their former prisoners.

Reflecting this, the ERA has recommended measures that focus on measuring how a prison has assisted in increasing prisoners' skills or capacity in areas that may contribute to them not reoffending when they are released. There are seven factors that are identified to contribute to the likelihood that a prisoner will reoffend on release. These factors are: accommodation; education, employment and training; budgeting and debt management; drug and alcohol dependence; physical and mental health; family connection; and attitudes, thinking and behaviour.²⁴¹

Superintendents are able to exert influence over a prisoner's drug use while in prison. Superintendents are responsible for keeping their facility secure, which includes minimising the amount of contraband (including drugs) that enters the prison. However, Superintendents have limited control over the other factors that influence the likelihood of a prisoner reoffending.

Prisons offer prisoners programs that are designed to address their needs in many of these areas. However, these programs are designed and delivered by Adult Justice Services within the Department's head office, not by individual prisons. (See Table 2 in Chapter 3 for a description of their relative responsibilities). Therefore, individual prisons cannot be held accountable for the outcomes of these programs and services. However, individual prisons can have some influence over prisoner participation in, and completion of, programs. Prisons can exert this influence by taking opportunities to encourage prisoners to attend and persist with programs, by ensuring prisoners are able to get to programs on time and

²⁴¹ See for example: United Kingdom Ministry of Justice, *Transforming Rehabilitation: a summary of evidence on reducing reoffending*, London, United Kingdom, 2013; and Tasmania Department of Justice, *Breaking the Cycle – Tasmanian Corrections Plan (2010-2020) Background Paper: Pathways to Offending*, Hobart, Government of Tasmania, 2010.

ensuring that education and programs go ahead as scheduled (for example, by avoiding lock downs that prevent prisoners from attending programs).

Therefore, the performance measures the ERA has recommended in this area are largely limited to a prison's ability to maximise prisoner participation in, and completion of, programs, education and employment.

6.3.3 Prisoner quality of life

Prison quality of life is addressed in several ways. The majority of the requirements for prison performance in this area are set out in service standards or operational requirements that prisons must satisfy. These standards and requirements establish the minimum standards for a number of areas such as prisoner accommodation, food and hygiene. However, areas not included in these standards can provide another means of assessment for the quality of life that a prison is providing to its prisoners.

There are very few measures currently used to assess this aspect of prison performance. The main measures used are the number of hours that prisoners are out of cells and hours spent in constructive activity. Prisoner quality of life can also be measured through prisoner and stakeholder surveys. The ERA has identified two surveys: the MQPL survey and the Customer Satisfaction Survey for Wandoo Reintegration Facility as potential measures.

The MQPL survey, developed by Professor Alison Liebling, is intended to overcome inadequacies of narrow and selective performance indicators that are often used to measure the quality of a prison.²⁴² The survey has been developed based on what staff and prisoners consider to matter in prisons.²⁴³ Stakeholders have expressed positive views of the survey during consultations for this Inquiry. However, completing the survey and corresponding assessment is time consuming and resource intensive. It involves a team of researchers entering the prison for a period and then developing a report with synthesized quantitative and qualitative data.²⁴⁴

The Customer Satisfaction Survey has been developed as a performance measure for Wandoo. The survey was developed in consultation with the Department and Serco, drawing on the work completed by Alison Liebling. Concerns over statistical viability given the low population at Wandoo resulted in the survey only being completed for one quarter since the opening of Wandoo in November 2012. The survey is currently under review as a measure as part of the regular review of performance measures.²⁴⁵

Stakeholders have indicated a preference for the MQPL survey given that it is a better measure of outcomes than the Customer Satisfaction Survey, which measures prisoner perceptions. Given the broader support for the MQPL survey, both academically and from stakeholders, the ERA considers that the MQPL would be the preferred measure. However, due to its resource intensive nature, it is unlikely to be feasible to apply the measure in every reporting period.

²⁴² A. Liebling, S. Hulley, and B. Crewe, 'Conceptualising and Measuring the Quality of Prison Life', in D. Gadd, S. Karstedt, and S. Messner (ed.), *The SAGE Handbook of Criminological Research Methods*, London, SAGE Publications, 2012, pp. 358-373.

²⁴³ A. Liebling, 'What is MQPL? Solving puzzles about the prison', *Prison Service Journal*, vol. 202, no. 1, 2012, p. 3.

²⁴⁴ B. Schmidt, 'MQPL+ Doing Prisons Research Differently', *Proceedings of the Prisons Research Centre Annual Conference*, October 23 2014, University of Cambridge.

²⁴⁵ Information provided by the Department of Corrective Services on request.

6.3.4 Prison management

Superintendents should be responsible for the efficient management of their prison. Outcomes in the above categories should be achieved as efficiently as possible to ensure that taxpayers are receiving value for money.

The most obvious indicators in this area are measures of a prison's cost, such as cost per prisoner per day, or whether the prison is operating on budget. Such measures provide an indication of how efficiently the prison is achieving its outcomes.

Performance measures could be extended to reflect issues with the management of the workforce through measures of personal leave, workers' compensation and overtime costs. High levels of personal leave, workers' compensation and overtime can result in staff morale issues that affect the performance and productivity of a prison.²⁴⁶ These issues can also be evidence of a poor staff culture, where leave entitlements and overtime are overused. All of these factors can reflect inefficiencies in the operation of the prison.

In assessing prison performance in these areas, consideration must be given to whether the prison is achieving the outcomes that the Department wants. It is inefficient to perform well in management performance measures (such as operating on budget) if prison outcomes (rehabilitation, safety and security and prisoner quality of life) are not being achieved. It is important that undue emphasis is not placed on management targets that leads to Superintendents putting more effort into cutting costs than in operating an effective prison.

Many of the performance measures for prison management that the ERA recommended in the Draft Report have not been recommended in this Final Report. The ERA has separated out performance measures that it considers provide useful management information (that is, information that informs the Department and prison Superintendents about their business), but may not provide a useful benchmark comparison. The distinction between performance measures that are used for benchmark comparisons and those that are for management information is based on whether the measure clearly reflects either good or bad performance. Where a measure is ambiguous (that is, an increase or decrease in the measure can be good or bad, depending on the circumstances) the measure has been listed as management information.

The ERA concluded that measures such as cost per prisoner per day, overtime use, personal leave and workers' compensation should be management information. The measures that the ERA considers useful management information are detailed in Table 23 in Section 6.8.4 at the end of this chapter.

The ERA considers that additional prison management performance measures could be included if the Department implements Service Level Agreements, as Superintendents will be given more control and responsibility for their budgets.

6.4 Comparing prison performance

The Terms of Reference for the Inquiry require the ERA develop and calculate a set of benchmarks to allow comparisons of the performance of individual prisons in Western Australia. There are two key components to prison benchmarking, which will allow fair comparisons of performance to be made. These are:

²⁴⁶ MTC Institute, *Measuring Success: Improving the Effectiveness of Correctional Facilities*, Washington D.C., MTC Institute, 2006.

- A method for setting targets, unique to each prison, which reflect the level of performance expected given a prison's characteristics.
- A system to allow for the differences in importance of performance measures, and the different priorities of prisons in the system.

There are a number of characteristics and factors that may affect a prison's performance relative to other prisons. The main factor that is likely to affect a prison's performance is the composition of its population. These factors should be adjusted for in setting a prison's benchmark targets. This is discussed in detail below.

After setting benchmark targets, the ERA considers there is benefit in developing a weighted scorecard to provide an accessible comparison of the performance of individual prisons. This method is discussed in detail later in this section.

6.4.1 *Setting benchmark targets for performance measures*

The performance of prisons against performance measures will be affected by the individual characteristics of each prison. As such, target levels of performance need to be set for each prison for each performance measure. These targets should represent an acceptable level of performance and be realistic and achievable.

Targets for performance measures should be informed by an understanding of the factors that influence the behaviour, requirements and outcomes of different prisoner cohorts. The ERA considers that the factors that have the most influence on prison performance are security level, sentence status (that is, remand or sentenced) and gender. These factors were identified from stakeholder consultation and research by the ERA. The effect of these three factors on prison performance, and options for setting targets to account for these factors, are discussed in the remainder of this section.

6.4.1.1 *Population characteristics effecting performance*

Prisoner security level

When a prisoner is received into prison, they are assessed to determine their security classification (maximum, medium or minimum-security). A prisoner's security classification is largely determined by the likelihood of a prisoner escaping, and the threat to community safety if an escape was successful (for example, if a prisoner is convicted of murder and escapes they pose a greater threat to community safety than other prisoners).²⁴⁷

A prisoner's security classification can be adjusted throughout the course of their sentence and is informed by prisoner behaviour, offence type and history and program participation.²⁴⁸ This implies that maximum-security prisoners tend to be more poorly behaved and participate in fewer programs than medium-security and minimum-security prisoners. As such, prisons housing more maximum-security prisoners may not be able to meet the same benchmark targets as other prisons in program participation and prisoner behaviour measures such as assault rates.

²⁴⁷ Department of Corrective Services, *Adult Custodial Rule 18 - Assessment and Sentence Management of Prisoners*, Perth, Government of Western Australia, 2012, p. 5.

²⁴⁸ Department of Corrective Services, 'Assessment and Sentence Management', 2013, (accessed 26 August 2015) <https://www.correctiveservices.wa.gov.au/prisons/assessment-management.aspx>

Such relationships have been established in studies of prisoner behaviour. For example, a New South Wales study established a direct relationship between prisoner security level and violence in prisons.²⁴⁹

The regimes²⁵⁰ that prisoners face also vary depending on their security level and are likely to affect a prison's achievement of certain benchmark targets. For example, out-of-cell hours are typically higher in medium and minimum-security prisons than in maximum-security prisons.²⁵¹ This is a reflection of maximum-security prisons operating more restrictive regimes.²⁵²

Sentence status

Prisoners are either on remand (that is, legally innocent, but imprisoned awaiting a court date or sentencing) or sentenced (that is, convicted and sentenced to prison). The needs and behaviour of prisoners is likely to be affected by their sentence status and as such, the sentence status of prisoners should be considered when setting benchmark targets for prisons.

The Inspector of Custodial Services noted that remand prisoners pose particular challenges for prisons, because:²⁵³

- they are legally innocent and therefore entitled to a different regime; and
- having only recently entered prison, remand prisoners are likely to be more unsettled and volatile.

High rates of mental health disorder²⁵⁴ and prevalence of drug use²⁵⁵ in remand prisoners are likely to increase their volatile and unsettled nature. Being more unsettled and volatile may translate to higher rates of assault and other poor or unpredictable behaviour.

There are a number of issues surrounding remand prisoner participation in programs, education and training, and employment. For example, Regulation 43 of *Prisons Regulations 1982* states that a prisoner on remand shall not be required to work. Such requirements will limit the number of prisoners who are in employment in prisons that hold remand prisoners.

Stakeholders have told the ERA remand prisoners often refuse to participate in offender programs as doing so may be seen as an admission of fault or guilt. Additionally, remand prisoners are typically on short stays, which may inhibit the ability of prisons holding a high proportion of remand prisoners from achieving targets relating to programs, and education and training.

²⁴⁹ NSW Department of Corrective Services, *Assaults and Fights in NSW Correctional Centres*, report prepared by S. Corben, Sydney, Government of New South Wales, 2003, p. 21.

²⁵⁰ A prison regime is a timetable that details the times that prisoners are locked and unlocked, and time set aside for education and training, employment, programs, visits and recreation.

²⁵¹ Hakea Prison (mostly maximum-security) averaged 10.7 hours out of cell per day in 2014. Wooroloo Prison Farm (minimum-security) averaged 15.3 hours over the same period. Source: Data provided by the Department of Corrective Services on request.

²⁵² Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Casuarina Prison*, Perth, Government of Western Australia, 2014, p. vii.

²⁵³ Office of the Inspector of Custodial Services, *Female Prisons in Western Australia and the Greenough Women's Precinct*, Perth, Government of Western Australia, 2014, p. 6.

²⁵⁴ P. Taylor et al., 'Improving mental state in early imprisonment', *Criminal Behaviour and Mental Health*, vol. 20, no.1, 2010, p. 215.

²⁵⁵ D. Mason et al., 'Substance use in remand prisoners: a consecutive case study', *British Medical Journal*, vol. 315, 1997, p. 18.

Prisons Regulations 1982 also stipulates other requirements for remand prisoners, including the right to daily visits (Regulation 56) and that remand prisoners shall, as far as practicable, be kept separate from sentenced prisoners (Regulation 57). Such regulations place extra requirements on prisons housing remand prisoners. These regulations may, for example, alter the regime of the prison, thereby affecting the number of hours prisoners are out of cell or the time spent in structured activity.

Gender

Prisoner behaviour and requirements differ depending on their gender. Differences can occur in health, service requirements, cost and likelihood of violent behaviour. These differences are likely to affect a prison's ability to achieve its benchmark targets.

In comparison to male prisoners, female prisoners suffer more frequently from disease, injury and illness and therefore utilise more health services.²⁵⁶ This may place added stress on prison services and affect prisoner attendance in programs, education and training, and employment.

The increased requirements for female prisoners may also be reflected in prison costs. Canada Corrections reports female prisoners are 85 per cent more expensive to house than male prisoners.²⁵⁷

Male prisoners in Canada are more than four times as likely as females to be placed in separate confinement (that is, separated for disciplinary reasons).²⁵⁸ This may reflect that male prisoners are more likely to engage in poor behaviour while in prison.²⁵⁹ This finding is supported by a New South Wales study, which found more than half of male prisoners were classified as "violent" compared to around one third of female prisoners.²⁶⁰

6.4.1.2 Options for setting benchmark targets

This section contains detail on three potential methods for calculating benchmark targets that adjust for the different characteristics of prison populations, being: the Department's current approach; grouping prisons with similar characteristics; and a population-adjusted approach.

The Department's current approach

Currently, the Department sets targets in two ways:²⁶¹

- Targets are set based on the performance of individual prisons over time. The average result over 18 months is determined for each indicator for each prison and an improvement factor of 10 per cent is applied. That is, the prison's target is to be 10 per cent better than its performance over the past 18 months.

²⁵⁶ N. E. Fearn and K. Parker, 'Health Care for Women Inmates: Issues, Perceptions and Policy Considerations', *Californian Journal of Health Promotion*, vol. 3, no. 2, 2005, p. 1.

²⁵⁷ Public Safety Canada, *Corrections and Conditional Release Statistical Overview*, Government of Canada, 2013, p. 25.

²⁵⁸ Public Safety Canada, *Corrections and Conditional Release Statistical Overview*, Government of Canada, 2013, p. 65.

²⁵⁹ Section 43 of *Prisons Act 1981 (WA)* stipulates that prisoners may be detained in separate confinement "for the purpose of maintaining good government, good order or security in a prison".

²⁶⁰ NSW Department of Corrective Services, *Profile of Violent Behaviour by Inmates in NSW Correctional Centres*, report prepared by J. Galouzis, Sydney, Government of New South Wales, 2008, p. 5.

²⁶¹ Information provided by the Department of Corrective Services on request.

- Some targets are set based on the expectations of the Department, not past performance. For example, the target for escapes or unlawful releases is zero for all prisons.

Targets are recalculated every 12 months to adjust for changes in prison performance and the requirements of the Department.

Setting targets in this manner adjusts for prison characteristics by basing a prison's target on its own past performance, resulting in different targets for each prison. This provides only an assessment of whether a prison has performed better or worse than it has in the recent past. It does not provide an assessment of whether that performance is good, bad, or indifferent when compared to the performance of other prisons in the system.

This method for target setting will favour poor performing prisons over well-performing prisons. A well-performing prison will be set a higher target than a poorly performing prison because its past performance is better. This could lead to situations where certain prisons fail to meet their targets even though their performance is superior to other prisons. This will imply the prison has performed worse than other prisons even though it is not likely to have.

Another issue with setting targets based on their own past performance is that it may limit a prison's incentive to exceed its targets. If a prison performs exceptionally well then its targets will be even higher in the next period. This may encourage prisons to meet their targets, but not exceed their targets. This will potentially decrease the rate of improvement in prison performance because prisons will have an incentive to not exceed their targets.

The ERA considers that setting targets based on the past performance of individual prisons will not necessarily result in targets that are based on good performance. Setting a prison targets based on its own past performance may reward poorly performed prisons with more easily achievable targets. For this reason, such targets should not be used to compare the performance of prisons.

Grouping prisons with similar characteristics

Another method for setting benchmark targets is to group prisons that have similar characteristics (for example, size, location, prisoner cohort). Targets are then set based on comparative performance within those groups. Targets could be set based on the average performance in the group, giving each prison in the group the same target for each measure.

Some stakeholders have indicated that some prisons could be usefully grouped together for performance comparisons. For example, the minimum-security and reintegration prisons (Wooroloo, Karnet, Pardelup and Wandoo) or some regional prisons (Greenough, Roebourne, West Kimberley and Eastern Goldfields).

If prisons can be grouped together appropriately then this method provides for a reasonable and straightforward approach to setting targets. Some prisons in Western Australia could be reasonably grouped together, however there are other prisons where there is no obvious comparator (for example, Acacia is the only prison that houses primarily medium-security prisoners).

Other stakeholders have suggested that this approach is not feasible due to the small number of prisons and the varying characteristics and location of those prisons. Comparator groups are used to assess prison performance as part of the Prison Rating System in the United Kingdom. This is possible because the United Kingdom has approximately 150 prisons. It is therefore possible to find enough prisons of a comparable nature to group together. In Western Australia, there are 15 prisons and very few, if any, are directly comparable.

The ERA considers that setting targets by grouping similar prisons is not feasible in Western Australia.

Population-adjusted approach

Under a population-adjusted approach targets would be set based on the composition of a prison's population and the average prison performance for cohorts across the prison system for the relevant measure. While this approach is based on past performance in prisons, each prison's target is based on the performance of all prisons, not just its own. Therefore, the performance of individual prisons has less effect on the targets that each prison is set and prisons have less incentive to limit their performance, as is the case with the Department's current approach.

This approach is based on the assumption that different cohorts of prisoners behave in different ways and affect the ability of prisons to achieve their targets. Targets for each prison are based on the average performance of cohorts (across the whole prison system) according to prisoner security level, sentence status and gender, and the composition of the population of each prison according to these three factors.

The ERA has limited the number of categories to three to ensure that the number of prisoners in each category would be large enough to provide a reliable average level of prison performance for each cohort. A number of other population and prison characteristics may have some effect on prison performance. These factors include the location of the prison, the age and offence profile of prisoners, the proportion of prisoners who are Aboriginal, and the sentence length of prisoners. While the ERA appreciates these factors may have some effect on prison performance against benchmark targets, it has sought to limit the complexity of the process by restricting the factors considered to those likely to have the greatest effect.

Table 14 provides an illustration of this process using dummy-data for average assault rates as a worked example. The average performance for each cohort across the system is multiplied by the percentage of the prison's population of each cohort and summed to give the prison its target for the performance measure.

Table 14 Population-adjusted approach example

Security level	Maximum-security				Medium-security				Minimum-security			
Sentence status	Remand		Sentenced		Remand		Sentenced		Remand		Sentenced	
Gender	M	F	M	F	M	F	M	F	M	F	M	F
Average assault rate (whole prison system) (%)	7%	5%	5%	4%	4%	2%	3%	1%	2%	1%	2%	1%
Prison A Population (%)	70%	-	20%	-	-	-	10%	-	-	-	-	-
Prison A target (%)	Target = (7 x 70%) + (5 x 20%) + (3 x 10%) = 6.2											
Prison B population (%)	-	-	-	-	30%	-	-	20%	-	-	40%	10%
Prison B target (%)	Target = (4 x 30%) + (1 x 20%) + (2 x 40%) + (1 x 10%) = 2.3											

The average cohort performance is based on an average of performance across the system over the past 24 months. That is, in the above example, the average assault rate for prisoners who are maximum-security, remand and male is seven per cent. For Prison A, this cohort is the majority of its population (70 per cent) and therefore contributes the most to determining its target level of performance. Prison A also houses some prisoners who are maximum-security, sentenced and male (20 per cent) and some prisoners who are

medium-security, sentenced and male (10 per cent), which make up the remainder of its target.

The example illustrates how the population-adjusted approach will result in different targets for prisons with different populations. Prison A has a population that is more likely to be involved in assaults and is therefore given a higher target level of assaults (6.2 per cent) than Prison B (2.3 per cent), which has a population that is less likely to be involved in assaults.

The ERA considers that the population-adjusted approach is beneficial in setting targets because it allows prisons to be compared fairly by adjusting for prison characteristics, it minimises ‘ratchet effects’, it incorporates improvement in performance over time, and similar methods have been successful in other industries.

ERA assessment

The ERA considers that benchmark targets should be set according to the population-adjusted approach. The purpose of the benchmarking in this Inquiry is to provide a means for comparing the performance of prisons. Accordingly, benchmark targets should be set based on what a prison should be achieving based on its characteristics, not its past performance. The ERA considers that a population-adjusted approach sets targets that allow these comparisons to occur.

By using an average of performance across the prison system, rather than past performance of individual prisons, the approach minimises disincentives resulting from any ratchet effect. A ratchet effect occurs when an organisation’s performance targets are set based on its own past performance. When targets are set based on an organisation’s past performance, improvements (or regressions) in performance will result in higher (or lower) performance targets in the following period. Where this is the case, the organisation will have a disincentive to exceed its targets because, if it does, its targets will increase in the next period and be more difficult to achieve. This disincentive is minimised by using an average across the whole system so that changes in an individual prison’s performance do not significantly alter its own targets.

Improvement in performance in the prison system will be reflected in higher targets over time. As performance improves, the average of performance across the system will increase and result in higher benchmark targets for prisons. If prisons are appropriately incentivised to increase performance, then benchmark targets would gradually increase over time, leading to improvements across the system.

The ERA is aware that basing benchmark targets on the past performance of all prisons is likely to result in situations where well-performing prisons are set targets that are below their usual level of performance. This is because the target is determined according to the performance of all prisons, and therefore includes the poorly performed prisons, which will result in a lower target. Setting a prison’s targets lower than its past performance may limit its incentive to maintain or improve its performance over time. However, lower benchmark targets do not limit the ability of the Department to monitor trends in the performance of individual prisons. The ERA discusses how benchmarking will incentivise improved performance of prisons in Section 6.4.4. Incentives are discussed more broadly in Section 5.6.5.

Any benchmark target that is not based on an absolute target (that is, a best possible level of performance) is likely to have weaknesses. It is not possible to set targets for prison performance measures that are the best possible level of performance, because the best possible level of performance is not known. The ERA has detailed some of these weaknesses in its assessment of other target setting methods.

The ERA considers that the population-adjusted approach should be used for setting benchmark targets for performance measures that are likely to be affected by characteristics of the prison population. Some performance measures are unlikely to be

affected by a prison's population. For example, the number of prisoners who are offered support after failing a random drug test should not change dependent on the composition of the prison's population. Where this is the case, targets should be set based on the average performance of the prison system without adjusting for population differences.

The ERA's approach to target setting is discussed in more detail in the Prison Benchmarking Manual published in conjunction with this Final Report.

6.4.2 Making comparisons of performance

If targets are set appropriately, then prison performance can be compared by assessing how each prison has performed against its targets. However, doing so does not provide an indication of the importance of each measure of performance, or the differing priorities of individual prisons. Therefore, only publishing performance against targets does not provide a full understanding of the performance of prisons.

A more transparent, and complete comparison could be made through assigning a performance grade to prisons, which would reflect their performance. There are two jurisdictions that have introduced performance grades to compare the performance of individual prisons. These are the New Zealand Prison Performance Table and the United Kingdom Prison Rating System. This section discusses both approaches and their merits as a means of comparing performance.

6.4.2.1 New Zealand Prison Performance Table

The Prison Performance Table²⁶² assesses prison performance according to core security, internal security procedures and rehabilitation performance. Each prison is ranked in categories of Needs Improvement, Effective, Exceeding or Exceptional based on its performance in each area.

Prisons are initially assessed through a core security gateway that considers major failings in prison safety or security. Prisons fail the core security gateway if there have been any incidents that are considered unacceptable in any form. These incidents include escapes, riots and unnatural deaths. If a prison fails the core security gateway, it is immediately given a grade of Needs Improvement. If a prison passes the gateway (that is, it has had none of the specified incidents during the period) it proceeds to the internal procedures gateway.

The internal procedures gateway is a test of whether a prison is meeting minimum requirements for safety and security. This gateway includes measures such as assaults, justified complaints from prisoners and incidents of self-harm. Prisons are given a baseline score that reflects its characteristics including population size and composition and population turnover. The baseline score reflects the maximum level of safety and security problems that could be considered acceptable. The prison then accumulates a score that reflects the extent of safety and security incidents occurring during the period. If the prison's score is more than its baseline score, then it fails the internal procedures gateway and receives a grade of Needs Improvement. Prisons that pass the internal procedures gateway proceed to an assessment of rehabilitation performance.

Rehabilitation performance is assessed by the prison's performance against seven performance indicators. Performance indicators are based on how the prison contributes to a prisoner's rehabilitation through program, education and employment participation. Performance against each performance indicator is weighted to give the prison a rehabilitation score out of 100. Prisons are then given their final grade according to their

²⁶² New Zealand Department of Corrections, *Prison Performance Tables Methodology*, Government of New Zealand, 2015.

rehabilitation score. A score above 90 per cent results in a grade of exceptional, 80 to 90 per cent a grade of exceeding, 65 to 80 per cent a grade of effective and less than 65 per cent a grade of needs improvement.

6.4.2.2 United Kingdom Prison Rating System

The Prison Rating System²⁶³ is a 'weighted scorecard' approach that assigns prisons a grade of one to four. The grade reflects the prison's performance as:

1. Overall performance is of serious concern.
2. Overall performance is of concern.
3. Prison is meeting the majority of targets.
4. Prison performance is exceptional.

Grades are awarded based on prison performance in domains of Public Protection, Reducing Re-offending, Decency, and Resource Management and Organisational Effectiveness.

The performance of prisons in each domain is determined by the achievement of various related drivers and their corresponding measures. For example, a prison's score in the Reducing Reoffending domain is partly determined by the driver Resettlement, which is measured by indicators such as the number of prisoners in settled accommodation, employment and education and training on release.²⁶⁴

Depending on the prison's performance against its targets, it is awarded a score of one to four for each measure. Measures are then weighted based on their relative importance to the driver, and in turn domain, to calculate a score of one to four for each performance category and a score for the prison's performance overall.

This score is then adjusted if there has been certain negative outcomes in the period. If there has been an escape, or the prison was assessed as poor by Her Majesty's Inspector of Prisons (HMIP)²⁶⁵ its final score is downgraded by one grade.

6.4.2.3 ERA assessment

The ERA considers that giving a prison a grade or score provides for a fair high-level comparison of prison performance. The ERA prefers a weighted scorecard approach, such as that used in the United Kingdom, rather than the New Zealand model.

The key difference in the two approaches is the emphasis that the New Zealand model places on security. Through the inclusion of two security gateways, the New Zealand model places greater emphasis on security incidents that can result in an automatic failure for prisons. Grading prisons in this manner may mean that a prison's performance in rehabilitation, a key objective of prisons, is not assessed at all. This would be of particular concern for minimum-security facilities whose main role is to assist in transitioning prisoners into society upon release.

In contrast, the United Kingdom model assesses all areas of performance when assigning a grade. One incident does not in itself result in the prison being given a poor grade.

²⁶³ Ministry of Justice, *PRS: Prison Rating System Specification Document*, Government of the United Kingdom, 2014.

²⁶⁴ Ministry of Justice, *PRS: Prison Rating System Specification Document*, Government of the United Kingdom, 2014, p. 6.

²⁶⁵ Her Majesty's Inspector of Prisons has a similar role to the Inspector of Custodial Services in Western Australia.

However, prisons are judged harshly for incidents that pose a threat to community safety or represent serious breaches in prisoner safety (for example, an escape results in the prisons grade decreasing by one).

Additionally, a model where weights are applied to performance categories allows the weighted scorecard to reflect priority areas of performance for prisons in accordance with their role in the prison system. For example, a minimum-security facility may be given a greater weighting for prisoner rehabilitation than a maximum-security facility. This can also be achieved in the weighting of individual performance measures within categories.

Within such a model, the progress of individual prisons against specific measures can also be monitored to facilitate improvements. Accordingly, the ERA recommended the introduction of a weighted scorecard in the Draft Report.

In response to the Draft Report, some stakeholders questioned the merits and practicalities of implementing a weighted scorecard approach to compare performance across prisons.²⁶⁶ In the remainder of this section, the ERA has provided a discussion of the advantages, disadvantages and practical difficulties of a weighted scorecard.

A key advantage of weighting performance categories and individual performance measures within categories is that it allows the Department to reflect its priorities and the different roles of prisons within the prison system. For example, security is more important at the maximum-security Casuarina than at the more rehabilitation-focused prisons such as Wooroloo or Boronia. Therefore, under a weighted scorecard, Casuarina would have a higher weighting for security measures and Wooroloo and Boronia would have a higher weighting for rehabilitation measures.²⁶⁷

WAPOU submits that there is an obvious conflict of interest in the Department setting weights for performance categories. Doing so may result in the Department setting higher weights for cost saving measures, especially given the current fiscal environment. The ERA considers that in the absence of a weighted scorecard, the Department is still free to set the priorities of individual prisons (including a focus on cost reduction). The introduction of a weighted scorecard, combined with transparency around methodology and performance data, will make the priorities that the Department sets for prisons more transparent to the public and to stakeholders. This would allow the public and stakeholders to interrogate the priorities of the Department and the effect of those priorities on prison outcomes. The ERA considers that if weights are to be appropriate, they need to be set by the Department given that they are a reflection of the Department's priorities and the role of each prison (which is a decision for the Department) in the system.

Another advantage of the weighted scorecard approach is that it allows the performance of each prison to be assigned a grade. This makes performance information more accessible to stakeholders, allowing an understanding of the relative performance of individual prisons without the need to interrogate detailed performance data.

Offsetting this benefit, the presentation of weighted performance information could:

- *Reduce transparency of prison performance.* If the Department only publishes grades for each prison, without supporting information, stakeholders will not be able to understand and challenge high-level assessments.
- *Weaken the link between staff behaviour and prison performance.* It may be more difficult for Superintendents to motivate and manage staff if prison staff cannot readily understand how performance is being assessed. If a prison has clear

²⁶⁶ See for example, submissions from Dr Phil Toner and WAPOU.

²⁶⁷ It should be noted that differences in priorities for individual prisons may or may not be reflected in targets for each prison. Targets would be based on an assessment of what is an acceptable and realistic level of achievement for each prison against each performance measure.

performance targets, Superintendents can use these targets to illustrate current performance and desired performance to staff. This illustration may become less clear when weighted scorecards are involved.

The issues surrounding transparency and complexity could be at least partially mitigated through reporting practices. The ERA considers that the following items should be published:

- The performance grade of each prison.
- The method for deriving the performance grade of each prison, including the weights assigned by the Department to individual performance measures and performance categories.
- The performance of each prison against targets for individual performance measures.
- Commentary on any one-off uncontrollable events that had a positive or negative effect on a prison's performance during the period.

Doing so provides stakeholders with an assessment of each prison's performance and allows them to understand the reasons why each prison was assigned its performance grade.

Stakeholders have told the ERA that Superintendents of prisons in Western Australia currently operate in a cooperative manner to assist each other in improving their performance. The same stakeholders expressed concern that introducing a weighted scorecard, and the competitive tension that comes as a result, may give Superintendents an incentive to limit their assistance to other prisons. This would be an undesirable result.

The ERA considers that disruption to cooperation between prisons can be mitigated through the design of the weighted scorecard. If a prison's performance grade is not affected by the performance of other prisons, then cooperation between Superintendents should not be disrupted. Performance grades should reflect whether a prison is meeting the expectations of the Department, not an explicit ranking of prison performance. To do so, there should not be a limit to the number of prisons allocated to each grade. That is, if all prisons are performing well, then all prisons should be awarded a performance grade that reflects such. This is a key difference to the Prison Rating System in the United Kingdom. In the PRS, prisons are not able to reach the highest grades unless they perform better than a sample of similar prisons.²⁶⁸ Ensuring a prison's grade is not affected by the performance of other prisons should facilitate continued cooperation between prisons.

On balance, the ERA considers that the advantages of applying a weighted scorecard outweigh the disadvantages. The ERA considers that publication of a weighted scorecard improves transparency overall by facilitating an understanding of prison performance and that measures can be put in place to manage negative effects of weighted scorecards.

6.4.3 *Implementing a weighted scorecard*

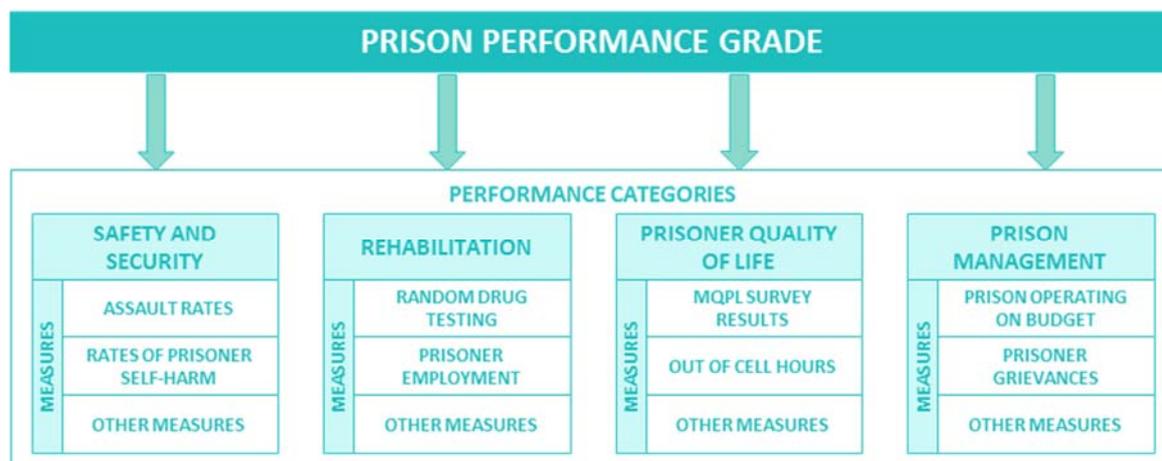
The ERA considers a model where prisons are given a weighted grade for performance to be the best means of comparing prison performance.

Under a weighted scorecard, prisons are given a target for each performance measure in categories of safety and security, rehabilitation, prisoner quality of life and prison

²⁶⁸ Ministry of Justice (United Kingdom), *PRS: prison rating system Technical note*, London, Government of the United Kingdom, 2012, p. 13.

management. Performance in each category is then weighted to provide an overall performance grade for the prison. This relationship is illustrated in Figure 22.

Figure 22 Summary of benchmarking process



To implement this approach, calculations will need to be made to determine:

- each prison's target level of performance for each measure;
- a weight for each measure reflecting its importance to its category; and
- a weight for each category reflecting its importance to the prison's overall performance.

The method for setting benchmark targets for individual prisons has been discussed previously. The following sections provide some guidance to the Department on how to assign weights to performance measures and categories and how to determine performance grades for prisons.

6.4.3.1 *Assigning weights*

Weights are used to reflect the relative importance of performance measures and categories to a prison's overall performance grade. Weights are assigned at two levels in this approach:

- For each measure within a performance category, to reflect the relative importance of each measure to its performance category.
- For each performance category in the overall performance grade to reflect the relative importance of each performance category to overall performance.

Weights are distinct from the target for each performance measure. The target reflects what a prison should be achieving given its characteristics, while the weights reflect the relative importance of achieving each benchmark target.

Measures and performance categories are weighted because they have different levels of importance. Some measures may be more important to the performance of a category than others and are therefore given a higher weight. Likewise, more importance can be placed on certain performance categories and therefore these can be assigned a higher weight in determining the overall performance grade of a prison.

These weights are to be determined by the Department given that weights are a reflection of their priorities. The ERA believes it would be counterproductive for weights to be set by the ERA as it may result in prisons being given two sets of priorities (one internally from the Department and one resulting from the weights set independently by the ERA).

The Department may decide that weights should vary between prisons. For example, the rehabilitation performance category for a minimum-security prison may be given a higher weight than for a maximum-security prison, reflecting the prison's relative priority in reintegrating prisoners into society.

In assigning weights for measures and performance categories, the Department should consider the following.

- Weights should be consistent with the overall priorities of the Department and the prison system, including those outlined in the Department's mission statement.
- Weights should reflect the relative importance of individual performance measures and performance categories, not the difficulty of achieving benchmark targets. Difficulty will be accounted for in setting targets for each performance measure.
- Weights should be relatively balanced to ensure that excessive priority is not given to one aspect of prison performance compared to others.
- It may be appropriate for weights for performance categories to vary from prison to prison reflecting their different roles in the prison system.
- The weights assigned to individual prisons should be discussed with Superintendents as part of the negotiation of the Service Level Agreement for each prison.
- The rationale behind the weights assigned to performance measures and performance categories should be published so that it is transparent to prison staff, stakeholders and the public.

6.4.3.2 Determining performance grades

Each prison will be assigned a performance grade that is based on the performance of the prison against targets for its performance measures and the weights assigned to those performance measures and the four performance categories. The performance grade will reflect the overall performance of the prison in the reporting period.

A prison's performance against its targets is assessed as the percentage of the target that is achieved. The performance against each measure is weighted to give a percentage that reflects the prison's performance in each category. The percentage for each performance category is converted to an overall percentage score based on the weights assigned to each performance category. Table 15 provides a simplified example.

Table 15 Calculating overall percentage score (illustrative)

Category	Category 1		Category 2	
	Measure 1	Measure 2	Measure 1	Measure 2
Measure score	120%	40%	100%	60%
Measure weight	75%	25%	50%	50%
Category score	Score = (120% x 75%) + (40% x 25%) = 100%		Score = (100% x 50%) + (60% x 50%) = 80%	
Category weight	75%		25%	
Overall percentage score	Overall score = (100% x 75%) + (80% x 25%) = 95%			

Based on this overall percentage, prisons are allocated performance grades. The prison's grades reflect the extent to which a prison has met, or not met, its targets for performance measures. Table 16 provides an example of potential grades. The table is for illustrative

purposes only. The Department is expected to determine the percentage ranges for performance grades after weights are determined.

Table 16 Allocating performance grades (Illustrative)

Performance grade	Percentage score
Prison performance is exceptional	Above 130 per cent
Prison performance is exceeding expectations	110 per cent to 130 per cent
Prison performance is meeting expectations	90 per cent to 110 per cent
Prison performance is in need of improvement	70 per cent to 90 per cent
Prison performance is of significant concern	Below 70 per cent

A prison that achieved a 95 per cent overall percentage score (as in the earlier example) would be assigned a performance grade of 'Prison performance is meeting expectations'.

There is no limit on the number of prisons allocated to each performance grade, and the grade of one prison is not affected by the grade of other prisons. This means, for example, if all prisons are performing exceptionally or all are performing poorly, then the grades allocated should reflect such.

6.4.4 Incentivising performance against benchmarks

The purpose of benchmarking in this context is to encourage improvements in the performance of the prison system, including by incentivising better performance within individual prisons. Performance benchmarking serves two key purposes:

1. It incentivises prison operators to improve their performance.
2. It provides greater information and transparency to inform the public about prison performance.

The incentives provided by benchmarking are key to delivering improvements in performance across the prison system. The ERA anticipates that the publication of a weighted scorecard will encourage better performance of individual prisons through the publication of performance grades. The publication of performance grades will improve the transparency of the prison system, including by allowing key stakeholders to identify which prisons are performing below expectations. This will increase the accountability of Superintendents for the performance of their prison.

As discussed in Section 6.4.3, performance grades under the weighted scorecard approach depend on a prison's performance against targets for performance measures that are based on a population-adjusted average performance across the prison system. The ERA considers these targets to be achievable for all prisons because they are an average of prior prison performance, weighted to reflect population-specific factors that affect the performance of individual prisons. The ERA considers that prisons performing below average should be able to improve to achieve that level of performance over time.

The ERA considers that the weighted scorecard approach will encourage the strongest improvements in performance by prisons that are performing below average, as the managers of these prisons seek to improve their performance at least to the average.

Prisons that are already performing above the targets for performance benchmarks will also have incentives to improve their performance, as they seek to maintain and improve their ranking compared to other prisons within the system and to move into higher performance grades.

The ERA considers that the Department should review the incentives resulting from the weighted scorecard two years after implementation to determine whether it is having the desired effect. If the incentives resulting from the weighted scorecard prove to be insufficient, the Department may consider introducing additional incentive mechanisms.

These additional incentives (which may be both financial and non-financial) could be linked to whether a prison has improved on its own past performance. That is, separate incentive targets could be set that are based on the past performance of individual prisons, rather than average performance across the prison system.

A similar approach is implemented in utility regulation, where utilities are set one target to measure a minimum acceptable standard of performance and a separate target to encourage improvements in performance. A utility is penalised if they fail to meet the minimum acceptable standard. However, a utility can earn an incentive payment if they exceed their incentive target, which is based on their own past performance.²⁶⁹

The Department may decide to implement a similar approach to prisons if the weighted scorecard is not providing enough incentives. This would involve setting two targets for each performance measure. One target would be the benchmark target according to the population-adjusted approach, which is used to calculate the weighted scorecard. Prisons would be set a second target based on their own past performance. Incentives could be applied for performance against this target. The ERA discusses types of incentives for prison performance in Section 5.6.5.

6.4.5 Data requirements for benchmarking

In order to implement the weighted scorecard approach, two activities need to be undertaken by the Department:

1. weights need to be determined for each performance measure and performance category; and
2. data systems and collection need to be improved to provide the data necessary to calculate benchmark targets.

This would allow each prison to be set a benchmark target for each performance measure, and enable the determination of performance grades. The ERA considers that the Department should be responsible for setting the weights for performance measures and categories because weights should reflect the Department's priorities for each prison. The ERA intended to calculate benchmark targets in this Final Report, but has only been able to do so for four performance measures. Sufficient data was not available for the remaining performance measures.

The ERA has attempted to obtain the data required to calculate targets for performance measures for prisons in accordance with the population-adjusted approach. Despite the best efforts of the Department and the ERA, the Department has been unable to provide the required data because of issues with the design of its existing data systems and restrictions on staff resources. For this reason, the ERA has only been able to calculate benchmark targets for four of the 26 recommended performance measures.

Key issues with the Department's current data systems and staff resourcing that have prevented it providing the necessary data to the ERA include that:

²⁶⁹ Economic Regulation Authority, *Final Decision on Proposed Revisions to the Access Arrangement for Western Power*, Government of Western Australia, Perth, 2012, p. 423-457.

- The Department has multiple data systems that are not well aligned and are not sufficiently sophisticated to provide data at the level of granularity required by the ERA.
- The Department could not attest to the accuracy of any data that it could provide and the Department does not have sufficient qualified staff to manually check and correct any errors.
- The Department is not currently sufficiently resourced to address issues with its data systems. The Department has lost a number of skilled data staff, who have not yet been replaced. The Knowledge and Information Technology directorate (**KIT**) has begun the process of recruiting staff to reach a full complement of 15 FTE. KIT is currently operating with three staff.

The Department is working to address these issues. Following full recruitment in the KIT directorate, the Department will be undertaking a review to address deficiencies in its data systems. Resolving these issues will allow the Department to collect the data required for setting targets in a timely and accurate manner.

These issues are detailed in a letter to the ERA from the Commissioner of Corrective Services. This letter is provided in Appendix 7.

While the ERA has been unable to calculate benchmarks as intended, it has published the performance data available to it, where useful, in Appendix 5 of this Final Report. The data provided in Appendix 5 does not represent a performance benchmarking exercise. This is because the data provided is largely composed of each prison's performance against its key performance indicators. The targets used are set based on each prison's own past performance and are not adjusted to account for differences in prison characteristics. Therefore, the data provided in Appendix 5 cannot be used to make a fair comparison of prison performance.

However, in the interest of transparency, the ERA has provided as much performance data as is available to it to inform stakeholders about the performance of prisons in Western Australia. This performance data includes:

- A set of performance indicators showing the performance of public prisons from July 2013 to December 2014. The Department has not produced performance reports for the periods following December 2014.
- A set of performance indicators showing the performance of private prisons from July 2013 to June 2014.
- The Department's performance against its corporate and divisional performance indicators for the period 2009-10 to 2014-15.
- Definitions of all performance indicators.
- Data on prisoner employment and program participation.

Appendix 5 also provides some information about the composition of the prison population, staffing levels and prisoner transport.

6.5 Limitations on benchmarking

In response to the Draft Report, some stakeholders submit that benchmarks should only be used as part of a range of activities to assess and inform prison performance.

Andrew *et al*, the CPSU/CSA and Professor Podmore submit that benchmarking should not be the only tool to assess performance. Benchmarking should not replace meaningful dialogue with key stakeholders within the prison system.

The ERA acknowledges that performance benchmarks do not provide a complete understanding of the performance of individual prisons. However, the ERA does not consider that the limitations of benchmarks mean that benchmarking is not a worthwhile exercise. Benchmarking will provide the Department and individual prisons more information about their performance and can be used to facilitate meaningful discussion about performance drivers and performance improvement within prisons and across the system.

Reporting against benchmarking should be used in combination with other information to inform the understanding and decision-making of the Department. In particular, the ERA envisages that benchmarks would be presented and discussed at regular (monthly or quarterly) meetings between the Department and Superintendents. Benchmarks for each prison should be accompanied by commentary from Superintendents on factors that contributed to, or detracted from, a prison meeting its benchmark targets. This commentary would support discussions at regular meetings and contribute to the identification of ways of improving performance, where necessary. This discussion should also be informed by performance monitoring undertaken by other organisations.

The ERA notes that prisons are subject to performance monitoring from the Office of the Inspector of Custodial Services. The Office of the Inspector of Custodial Services is required to inspect each prison in Western Australia at least once every three years. Inspection reports detailing findings are tabled in Parliament. In addition to the performance monitoring undertaken by the Office of the Inspector of Custodial Services, the Department needs to conduct its own analysis and further develop its understanding of the operation of the prison system. While this may result in some duplication, multiple sources of information about prison performance will help to inform decision-making by the Department and ensure that information is robust and accurate.

Comparative benchmarking does not limit, and should not replace, continued monitoring of trends in the performance of individual prisons and the system over time.

6.6 Recommended performance measures

Table 17 contains the list of performance benchmarks recommended by the ERA and more detail on the ERA's rationale behind selecting each performance measure.

Measures have been selected with the view of measuring a prison's performance in the above areas with measures that are relevant to the Department's objectives and can be influenced by Superintendents. Benchmarking should be a dynamic process, with performance measures and weights regularly reviewed and altered to reflect changes in the objectives of the Department.

The ERA has selected performance measures that reflect the current operations of the Department. Performance measures selected are limited to those that Superintendents are able to influence. If other recommendations from this Inquiry are implemented, such as the introduction of Service Level Agreements, Superintendents may be capable of influencing a broader range of performance measures.

If Superintendents are given more (or less) responsibility for outcomes in certain areas, the measures that they are assessed against should change to reflect the change in their responsibilities. This may include performance measures that are currently reported at a Department level being incorporated into the benchmarking of individual prisons.

Similarly, the Department may develop more performance measures over time as data becomes available, or processes change. Measures may reflect new objectives of the Department or a better way of measuring performance in certain areas. These new performance measures should also be introduced into prison benchmarking where appropriate.

The ERA published a list of recommended performance measures in its Draft Report. The ERA has reconsidered these performance measures in response to feedback received from stakeholders. As a result, some performance measures that the ERA recommended in the Draft Report have been refined or removed from the list.

In particular, the ERA has separated out performance measures that it considers provide useful management information (that is, information that informs the Department and prison Superintendents about their business), but may not provide a useful benchmark comparison. The measures that the ERA considers useful management information are detailed in Table 23 in Section 6.8.4 at the end of this chapter.

The distinction between performance measures that are used for benchmark comparisons and those that are for management information is based on whether the measure clearly reflects either good or bad performance. Where a measure is ambiguous (that is, an increase or decrease in the measure can be good or bad, depending on the circumstances) the measure has been listed as management information. For example, an increase in the use of separate confinement could be viewed as either bad (that is, it indicates poor behaviour from prisoners) or good (that is, it indicates better management of behaviour by a prison). As such, this measure has been included as management information. In contrast, an increase in assaults is unambiguously bad and this measure has been retained as a performance measure.

Table 17 Recommended performance measures

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Safety and security					
Unnatural deaths	The number of deaths by other than natural causes as lawfully determined by a coroner under the Coroners Act 1996 (WA).	Unnatural deaths are those other than death by natural causes. This includes events such as: accident, homicide, misadventure and suicide.	Unnatural deaths are the extreme outcome of unsafe prison conditions.	Unnatural deaths are abatement events in the contracts for Acacia and Wandoo.	
Occurrences of serious self-harm or attempted suicide	Number of incidents of serious self-harm or attempted suicide divided by the prison's daily average population.	Daily average population is the average population for the prison over the period.	Prison operators should be aware of prisoners who are at risk of self-harm and make appropriate arrangements to ensure their safety.	Measures of self-harm and attempted suicide are performance measures for all public and private prisons and are commonly used in other jurisdictions.	

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Escapes or unlawful releases	The number of prisoners who have escaped or been unlawfully released from custody.	<p>Escape is defined as a person charged with escaping from lawful custody under Section 146 of the Criminal Code. For the purposes of this performance measure, prisoner refers to any person legally detained by the prison.</p> <p>Unlawful release refers to a situation where there is a legal remand warrant, warrant of commitment or other custody order in existence and the prisoner has been released from prison.</p>	Prisoners are incarcerated as a means of ensuring community safety. The number of escapes or unlawful releases from custody is a measure of how secure the prison is and how well it is protecting the community.	Escapes and unlawful releases are performance measures for public prisons and are used as abatement events in the contracts for Acacia and Wandoo.	For minimum-security prisons, prison farms and work camps, increasing focus on escapes may affect the rehabilitation activities that are offered. Clearly, escapes occurring in minimum-security prisons are not as damaging to community safety as escapes from maximum-security prisons and should be treated as such.

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Breach of Absence Permits	The number of Absence Permit breaches divided by the number of periods of permitted absence for the purpose of Section 83 of the <i>Prisons Act 1981</i> .	Prisoners may be granted Absence Permits to be absent from prison for the purposes of rehabilitation, reintegration, attending medical or health appointments, furthering the interest of justice and meeting the compassionate needs of prisoners to attend family and culturally significant events. ²⁷⁰ Breaches of Absence Permits can occur when a prisoner physically leaves the designated area and is away from direct custodial control (includes walk-aways from work parties or minimum-security escorts) or when a prisoner is outside of prison (for example, for work in the community) and does not return to prison when he or she is expected to.	A breach of an Absence Permit can be the result of insufficient monitoring or assessment of prisoner risk. Prisons assess whether a prisoner can be trusted to leave the prison for work or other activities. A breach of an Absence Permit poses some threat to the community, but is likely to be relatively low, given prisoners on work release are likely to be of low risk.	Absconds (breaches of Absence Permits) are used as abatement events in the contracts for Acacia and Wandoo. Absconds are essentially a breach of Absence Permit.	

²⁷⁰ Department of Corrective Services, *Policy Directive 9: Permits for Absence*, Government of Western Australia, Perth, 2015, p. 1.

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Incidents of loss of control	The number of times throughout the period that the prison experienced a loss of control.	A loss of control is a situation where a prison is forced to cancel the normal routine and seek external assistance (for example, from Police or the Department's Emergency Support Group) to regain control and establish the normal routine.	Losing control of the prison population is a major security concern. It also has potential implications for staff and prisoner safety.	Incidents of loss of control are used as abatement events in the contracts for Acacia and Wandoo.	
Prisoner-on-Staff serious assaults	Number of serious prisoner assaults on staff divided by the total FTE staff for the period.		Provides a measure of how safe staff are in prisons. This is a key objective in the Department's mission statement.	Staff assault rates are performance measures for all public prisons. Private prisons have a single performance measure covering assaults on prisoners, staff and others.	
Prisoner-on-Prisoner serious assaults	Number of prisoner serious assaults on other prisoners divided by the daily average population.		Provides a measure of how safe prisoners are in prisons. This is a key objective in the Department's mission statement.	Prisoner assault rates are a performance measure for all public prisons.	

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Misconduct by staff towards prisoners	Number of staff misconduct findings divided by the total FTE staff for the period.	<p>This measure is concerned with misconduct by staff members that relate to their interactions with prisoners. Misconduct counted in this measure should include:</p> <ul style="list-style-type: none"> • abuse of authority – threatening behaviour towards prisoners, intimidation and discrimination; and • assaults – sexual, indecent, misuse of force. 	Provides another measure of the safety of prisoners. The ERA has been told that staff on prisoner misconduct has occurred and have not been adequately addressed.	Staff misconduct is not commonly used as a performance measure.	There is likely to be a significant lag between misconduct event and investigation conclusion.
Rehabilitation					
Random drug testing	Number of positive results divided by the total number of random drug tests undertaken.	A positive drug test result is a test result obtained from an accredited laboratory in respect of a urine sample provided by a prisoner that indicates the presence in the sample of an illicit substance exceeding the allowable benchmark as specified in the State's testing protocols. A refusal to provide a urine sample for testing should be deemed a positive result.	Drug and alcohol use is a major factor in an individual's likelihood of offending. Random testing provides a measure of the level of drug use in prisons. Decreasing drug use is likely to have a positive effect on reducing reoffending.	The percentage of positive random drug tests is commonly used in prison benchmarking. It is a performance measure for all prisons in the State.	

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Offering support to prisoners who test positive to an illicit drug	Number of prisoners with a positive drug test result who were offered support within one week of the positive result being known divided by total number of prisoners who tested positive.		In discovering that an individual prisoner has been using drugs, prisons should provide support to attempt to address that prisoner's substance use.	This is a current performance measure at Acacia prison.	Consideration needs to be given to what constitutes 'offering support'.
Provision of prisoner Individual Management Plans (IMP) within 28 days of sentencing	The number of prisoners with an Individual Management Plan completed within 28 days of sentencing divided by the total number of prisoners who require an IMP according to Department policy.	An IMP sets out the needs of the prisoner and plans their sentence.	Prison Superintendents are collectively responsible for administering IMPs for prisoners. Ensuring that prisoners receive IMPs in a timely manner maximises the time that can be spent in rehabilitation activities.	This is currently a performance measure in public prisons in Western Australia.	
Prisoner participation in education and training	The number of prisoners enrolled in education and training divided by the total number of eligible prisoners.		Education and training are identified as key pathways to reducing reoffending. Individual prisons are not able to design programs. Therefore, prisons can only be held responsible for maximising prisoner participation and completion.	Participation in education and training is a performance measure in all prisons in Western Australia.	

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Prisoner completion of education and training	The number of prisoners who have completed an education or training course during the reporting period divided by the number of prisoners enrolled in an education and training course.		As above	Program completions are not currently used as performance measures.	There may be some variability in completions from period to period as education and training programs will not necessarily conclude in each period.
Prisoner basic education participation	Number of prisoners enrolled in an Adult Basic Education course divided by the total number of prisoners who have received a C or below on their literacy assessment.	Prisons offer basic education programs to prisoners when their assessment dictates a need.	The absence of basic literacy and numeracy skills can be a major barrier to prisoners gaining employment.	This is used as a performance measure at Acacia.	
Prisoner literacy and numeracy	Prisoners who were assessed as at-risk in literacy and numeracy on arrival, who improved their literacy and numeracy after undertaking an Adult Basic Education Course divided by the number of prisoners who were assessed as at-risk on arrival.	An assessment of the number of prisoners whose literacy and numeracy have improved during their sentence.	The absence of basic literacy and numeracy skills can be a major barrier to prisoners gaining employment. Measures of improved outcomes in literacy and numeracy provide a better measure of performance than course participation.	Improvements in education are measured in private prisons in New Zealand.	This measure would involve a change in practice, whereby prisoners are assessed upon leaving a prison as well as upon entry. Prisons currently undertake literacy and numeracy testing for all prisoners who are to serve a sentence of at least 6 months, but they do not conduct a follow up assessment.

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Prisoner employment	Number of prisoners participating in employment divided by the total number of prisoners that are eligible and capable of employment.	Some prisoners are not eligible for employment due to security reasons, or are not able to work due to mental or physical health issues.	Prisoner involvement in employment increases a number of skills relevant to gaining employment in society. Prisons should be seeking to maximise the number of prisoners who are involved in employment inside prison.	Prisoner involvement in education is a performance measure for all prisons in the State.	
Prisoner hours in employment	The total hours of prisoner employment for the reporting period divided by the average number of prisoners participating in employment.		In addition to measuring the percentage of prisoners in employment, measuring the hours that they are employed ensures prisons maximise time in employment as well as participation.	Prisoner hours in employment is not commonly used as a performance measure.	
Prisoner attendance in clinical intervention programs	The number of prisoners attending a clinical intervention program consistent with their IMP, divided by the number of prisoners who have a clinical intervention requirement in their IMP.	Clinical intervention programs are programs specific to treating offender behaviour and alcohol and drug use. These include cognitive skills courses, violent and sex offender courses and drug and alcohol rehabilitation.	Clinical programs help to address a number of areas that may have contributed to the prisoners offending behaviour. Again, prisons do not have control over the programs offered, but may be able to influence the number of prisoners who participate in, and complete, programs.	Participation in clinical intervention programs is a performance measure in all prisons, but does not take into account the programs being in accordance with an assessed need.	

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Prisoner completion of clinical intervention programs	The number of prisoners completing a clinical intervention program consistent with their IMP divided by the number of prisoners participating in a clinical intervention requirement in accordance with their IMP.		As above	Program completions are not currently used as performance measures.	
Prisoner health management on release.	The number of prisoners released with a medical discharge plan that meets health standards divided by the number of prisoners released with chronic disease, substance dependency or mental health issues.		Physical and mental health issues are major contributors to the likelihood that a prisoner reoffends. Providing prisoners with a discharge plan can help to reduce this impact.	This is used as a performance measure at Acacia.	
Prisoner mental health	The number of prisoners identified as having a mental health issue on arrival to the prison whose mental health has improved whilst at the prison divided by total number of prisoners who were identified as having a mental health issue on arrival to the prison.	This measure should be based on the Department's standard assessment to gauge the overall mental health of prisoners. The assessment will be administered to all prisoners on arrival to prison. A second assessment should be administered three months after entry to the prison to assess changes in health.	Improving a prisoner's health and wellbeing can reduce the chance of a prisoner reoffending.	A similar measure is used at Mount Eden Correctional Facility contract in New Zealand.	

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Prisoner quality of life					
Time spent in constructive activity	Total hours prisoners spend in constructive activity per day divided by a prison's daily average population.	Constructive activity involves undertaking activity in a work area, education, vocational training, and participation in a treatment program or other like program for self-improvement.	Increasing the time that a prisoner is in constructive activity increases their skills in a number of areas and minimises the time that prisoners are idle.	This is a performance measure for Acacia and Wandoo.	
Out-of-cell hours	The average number of hours in a 24-hour period that prisoners are not confined to their cells.		Increased time outside of their cell increases the quality of life for the prisoner allowing greater freedom and interaction with other prisoners.	Out-of-cell hours is used as a performance measure in public prisons.	
Measuring Quality of Prison Life survey	A prison's score from the Measuring Quality of Prison Life (MQPL) survey.	The MQPL survey is designed to measure prisoner quality of life. The measure could be the use of the entire survey, or the use of a subset of the survey specifically related to decency (as is utilised in the United Kingdom).	The survey is an explicit measure of the treatment of prisoners.	Subsets of the MQPL survey are used in the United Kingdom Prison Rating System.	The survey is time consuming and resource intensive, requiring a team of researchers to enter a prison and then assess their findings. Thus, if it is included, it may not be reasonable to conduct it for every period.

Performance measure	Formula	Further detail	Rationale	Is it used elsewhere?	Specific risks or considerations
Prison management					
Prison operating on budget	Actual annual expenditure divided by budgeted annual expenditure.		Operating on budget is a measure of efficient management. The ERA has been made aware that very few public prisons operate on budget.	Whether the prison is operating on budget is used as a performance measure in the United Kingdom.	This measure is not relevant to private prisons as they are paid the same amount irrespective of their actual costs. Additionally, if a private prison is over budget, it is the concern of the private company, not the Government.
Prisoner grievances upheld	Number of grievances lodged by prisoners that are upheld on investigation divided by a prison's daily average population.	Prisoners are able to make complaints either through the Department's process, or directly to the Ombudsman.	Justified complaints by prisoners are an indication of where management may have been insufficient or staff conduct inappropriate.	Prisoner grievances is not currently used as a performance measure in Western Australia or the United Kingdom. It is a performance measure for prisons in New Zealand.	

6.7 Benchmark targets

The ERA has only been able to calculate benchmark targets for four performance measures out of 26. This is because the data required to calculate the majority of benchmark targets is unavailable or its accuracy cannot be guaranteed.

Benchmark targets for out-of-cell hours have been set as the average of performance in prisons with the same highest security level.²⁷¹

Some benchmark targets are set as an acceptable figure for performance, which is uniform across all prisons. These are:

- unnatural deaths (target of zero for all prisons);
- escapes or unlawful releases (target of zero for all prisons); and
- prison operating on budget (target is 100 per cent or below for all prisons).

The following tables provide the benchmark targets and prison performance in Quarter 4 of 2014-15 for out-of-cell hours, unnatural deaths and escapes or unlawful releases. The ERA has not published tables for prison operating on budget because the Department has not provided the ERA with data on budget and actual expenditure for individual prisons.

Table 18 Out-of-cell hours benchmark targets and performance

Prison	Benchmark target	Actual performance for Quarter 4 2014-15	Percentage of target achieved
Acacia	12.34	12.48	101%
Albany	11.18	11.41	102%
Bandyup	11.18	11.12	100%
Boronia	16.06	16.00	100%
Bunbury	12.34	12.65	102%
Casuarina	11.18	11.85	106%
Eastern Goldfields	12.34	13.45	109%
Greenough	12.34	11.54	94%
Hakea	11.18	10.89	97%
Karnet	16.06	17.00	106%
Pardelup	16.06	17.00	106%
Roebourne	12.34	11.87	96%
Wandoo	16.06	15.00	93%
West Kimberley	12.34	11.73	95%
Wooroloo	16.06	15.27	95%

Note: Benchmark targets for out-of-cell hours are the average of performance in prisons with the same highest security level. Highest security level is determined as the highest security level (maximum, medium, or minimum) that is at least 10 per cent of the prison's population.

Source: Department of Corrective Services.

²⁷¹ Highest security level is determined as the highest security level (maximum, medium, or minimum) that is at least 10 per cent of the prison's population.

Table 19 Unnatural deaths benchmark targets and performance

Prison	Benchmark target	Actual performance for Quarter 4 2014-15	Percentage of target achieved
Acacia	0	0	100%
Albany	0	0	100%
Bandyup	0	1	0%
Boronia	0	0	100%
Bunbury	0	0	100%
Casuarina	0	0	100%
Eastern Goldfields	0	0	100%
Greenough	0	0	100%
Hakea	0	0	100%
Karnet	0	0	100%
Pardelup	0	0	100%
Roebourne	0	0	100%
Wandoo	0	0	100%
West Kimberley	0	0	100%
Wooroloo	0	0	100%

Source: Department of Corrective Services.

Table 20 Escapes or unlawful releases benchmark targets and performance

Prison	Benchmark target	Actual performance for Quarter 4 2014-15	Percentage of target achieved
Acacia	0	0	100%
Albany	0	0	100%
Bandyup	0	0	100%
Boronia	0	0	100%
Bunbury	0	0	100%
Casuarina	0	0	100%
Eastern Goldfields	0	0	100%
Greenough	0	1	0%
Hakea	0	0	100%
Karnet	0	1	0%
Pardelup	0	0	100%
Roebourne	0	0	100%
Wandoo	0	0	100%
West Kimberley	0	0	100%
Wooroloo	0	0	100%

Source: Department of Corrective Services.

6.8 Whole of Department performance measures

Some performance measures that would provide a useful measure of the performance of prisons cannot be adequately attributed to the activities of individual prisons. Such measures provide an assessment of the performance of the Department as a whole.

These measures focus on broader outcomes over which the Department has considerable control or influence.

Currently, the Department reports against a corporate scorecard that contains performance indicators for Adult Corrective Services, which includes community corrections and custodial services (prisons). The ERA has only commented on the indicators that relate to the performance of adult prisons. The indicators for community corrections are outside the Terms of Reference for this Inquiry.

Five of these indicators directly relate to prisons:

- Number of escapes.
- Rate of return – offender programs.
- Average out-of-cell hours.
- Rate of serious assault per 100 prisoners.
- Cost per day of keeping an offender in custody.

The remainder of this section provides a discussion on some recommended changes and additions to this list of measures. The measures discussed here are included in a list of recommended Department-wide performance measures provided at the end of this chapter, in Table 21. This is followed by Table 23, which provides a list of measures that the ERA considers to be useful management information that should be calculated and reported on, but should not be used for benchmarking.

6.8.1 Utilisation rates of prisons

The ERA considers that the main area of prison performance that is not currently reported is the utilisation rate of prisons. Prison utilisation rate is the daily average prisoner population as a percentage of the capacity of the prison. Prison utilisation provides a measure of whether a prison or the prison system is crowded.

The ERA considers that it is important to understand the measurement of prison utilisation because it can give an indication of a prison's ability to meet its objectives. For example, crowding limits prisoner access to programs and services and affects the prison environment, creating difficulty for prison officers.²⁷² There is also the potential for crowding to diminish the quality of life for prisoners and prison officers.²⁷³ Publishing a commonly understood measure of prison utilisation allows the Department to engage in more meaningful dialogue with key stakeholders about the effects of crowding in prisons.

Measuring prison utilisation is a complex and much-debated issue. This is primarily because there are multiple definitions of prison capacity and competing views among corrective service agencies and stakeholders as to which of these definitions should be used to measure prison utilisation. Prison utilisation rates will differ significantly depending

²⁷² New South Wales Inspector of Custodial Services, *Full House: The growth of the inmate population in NSW*, Sydney, Government of New South Wales, 2015, p. 28.

²⁷³ New South Wales Inspector of Custodial Services, *Full House: The growth of the inmate population in NSW*, Sydney, Government of New South Wales, 2015, p. 5.

on which definition of capacity is used. This results in the Department and stakeholders holding different views on the extent of crowding in prisons in Western Australia.

Throughout this Inquiry, stakeholders have expressed concern that the Western Australian prison system is crowded. Additionally, the Office of the Inspector of Custodial Services has consistently identified crowding as an issue in most prisons in Western Australia.²⁷⁴

For most infrastructure or services, a utilisation rate as close to 100 per cent as possible is desirable. However, in a prison context, the utilisation rate should be below 100 per cent so that there is sufficient spare capacity to allow for prisoner transfers and management. The New South Wales Inspector of Custodial Services concluded that prison utilisation should be between 85 to 95 per cent of capacity.²⁷⁵ The ERA considers that prisons require some spare capacity and that the spare capacity required will differ from prison to prison. For example, a prison with high prisoner turnover (such as Hakea) will require greater spare capacity than a prison with a more stable population (such as Acacia).

There may be instances where prisons have short periods when utilisation rates are high (above 100 per cent). This is a result of fluctuations in the prisoner population. Prisons need to have the flexibility to cope with fluctuations, but it is expensive and inefficient to build capacity to accommodate short-term peaks in prison populations. This may result in unavoidable instances where prison utilisation is above capacity. Provided this increase is only temporary, it may be appropriate for the efficient management of the prison system.

In 2013-14, the Productivity Commission reported that the Western Australian prison system had a utilisation rate of 101.1 per cent.²⁷⁶ Despite being below the average for Australia (104.4 per cent), the rate still indicated that prisons were operating above the capacity for which the prisons were designed.

During this Inquiry, the ERA has become aware of three different definitions of capacity used by various agencies reporting prison utilisation: total capacity; design capacity; and operational capacity.

The Department's current practice is to measure prison utilisation using total capacity. This is equal to the total number of beds in a prison including those temporarily used by prisoners for special purposes such as disciplinary segregation and mental health.²⁷⁷ The Department has previously reported capacity using design capacity and operational capacity.

The Productivity Commission reports on prison utilisation using design capacity. Design capacity is equal to the number of permanent beds available to the Department that are consistent with the design capacity of cells. It excludes beds used for special purposes and facilities or sections of facilities that are temporarily out of commission or have been decommissioned.²⁷⁸ The Department has reported design capacity in the past, but no longer supports this measure.

There is no publicly available definition of operational capacity.

The ERA considers that total capacity is an inaccurate representation of the true capacity of the prison system. This is because:

²⁷⁴ Office of the Inspector of Custodial Services, *2013-2014 Annual Report*, Perth, Government of Western Australia, 2014, p. 8.

²⁷⁵ New South Wales Inspector of Custodial Services, *Full House: The growth of the inmate population in NSW*, Sydney, Government of New South Wales, 2015, p. 28.

²⁷⁶ Productivity Commission, *Report on Government Services 2015*, Government of Australia, 2015, Table 8A.23.

²⁷⁷ The definition for total capacity was provided by the Department of Corrective Services on request.

²⁷⁸ Productivity Commission, *Report on Government Services 2015: Corrective Services Data Quality Information*, Government of Australia, 2015, p. 21.

- Total capacity includes accommodation used for special purposes. Prisoners who are in special purpose accommodation, such as mental health units or segregation cells, are typically only in such accommodation on a temporary basis. For example, if a prisoner is temporarily in separate confinement, they will need an ordinary bed to return to when they are released from separate confinement. It is therefore inappropriate to include both the temporary special purpose accommodation and their permanent bed in the prison's capacity.
- Total capacity only accounts for the number of beds in a prison. It does not consider the capacity of the prison in other essential areas, such as its ability to deliver services (for example, health services) and programs to prisoners.
- Total capacity includes 'doubling bunking'²⁷⁹ of cells that may not be designed to house more than one prisoner.
- Total capacity does not consider whether beds are consistent with national standards.²⁸⁰

For these reasons, the ERA considers that total capacity should not be used in assessing prison utilisation. The ERA considers that design capacity is a more appropriate measure. This is because it is based on the number of prisoners that infrastructure was intended to house when it was constructed and is consistent with accommodation standards of cells. The ERA found similar support for design capacity among several stakeholders including the Inspectors of Custodial Services of both Western Australia²⁸¹ and New South Wales,²⁸² and WAPOU.

Prison accommodation is designed in accordance with the Standard Guidelines for Prison Facilities in Australia and New Zealand.²⁸³ The guidelines outline the minimum requirements allowing prisoners an appropriate standard of living. This includes requirements for floor-space, ventilation and lighting.²⁸⁴ Design capacity therefore measures the number of prisoners that can be housed in a prison without detriment to prisoner welfare.

Design capacity should not be limited to the capacity of the prison when it was initially opened. Design capacity should be amended to reflect expansions in a prison's accommodation infrastructure, provided that expansions are consistent with the standard guidelines. For example, the double-bunking of cells intended for single occupancy would not be included, but the double-bunking of cells that are suitable for dual occupancy would be included.

While the ERA considers design capacity to be a better measure of capacity than operational or total capacity, it is aware that design capacity only measures a prison's capacity to provide accommodation and does not consider the capacity of prison to manage and deliver services to prisoners. In the Draft Report, the ERA stated it would consider developing an alternative measure of prison capacity.

²⁷⁹ Double bunking is the practice of placing an additional bed into a cell to allow two prisoners to be housed in a single cell.

²⁸⁰ Victoria Office of Corrections, *Standard Guidelines for Prison Facilities in Australia and New Zealand*, 1990.

²⁸¹ Discussions with Professor Neil Morgan, Inspector of Custodial Services.

²⁸² New South Wales Inspector of Custodial Services, *Full House: The growth of the inmate population in NSW*, Sydney, Government of New South Wales, 2015 p. 25.

²⁸³ Victoria Office of Corrections, *Standard Guidelines for Prison Facilities in Australia and New Zealand*, 1990.

²⁸⁴ This is primarily the "Standard Minimum Rules for the Treatment of Prisoners" Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 (XXIV) of 31 July 1957 and 2076 (LII) of 13 May 1977.

The ERA considers that existing measures lack two important components that contribute to a prison's capacity, being a prison's capacity to provide services and its staffing levels. Prisoners require access to services such as health, education and rehabilitation programs in order for a prison to achieve its objectives. Similarly, prisons require a sufficient number of prison officers in order to safely accommodate its prisoners. If a prison does not have sufficient capacity in staffing or services, then it could be considered crowded even if it has sufficient bed space.

The ERA identified rehabilitation and health as the services that should be considered in a measure of capacity. The ERA sought advice from key stakeholders on how the capacity of these services could be measured. Stakeholders expressed a view that measuring service capacity is complex because service needs vary significantly between prisoner cohorts. For example, female prisoners typically utilise health services more than male prisoners. It is therefore not possible to apply a system wide measure on the capacity of services required in each prison.

There is similar difficulty in assessing required staffing capacity. The number of staff required in a prison differs based on the difficulty of managing particular cohorts of prisoners. For example, minimum-security prisoners are generally more independent and require less supervision than maximum-security prisoners. Additionally, the physical infrastructure and design of a prison may affect the number of staff required to safely manage prisoners. For example, prisons that are more modern may have increased use of technology that decreases staffing requirements.

Therefore, due to the complexities in measuring services capacity and required staffing levels, the ERA has not developed an alternative measure of prison utilisation. However, the ERA considers that the Department should return to measuring prison utilisation according to design capacity. Design capacity should reflect any expansions in prison infrastructure provided they are consistent with the Standard Guidelines for Prison Facilities in Australia and New Zealand.

Additionally, the ERA recommends that the Department regularly audit each prison's service capacity and its staffing levels to ensure that services and staffing capacity remain consistent with the prison's design capacity.

The ERA recommends the Department reports utilisation rates based on design capacity for each prison and the prison system as a whole.

6.8.2 *Recidivism*

Rehabilitation of prisoners is a key objective of the prison system. Rehabilitating prisoners reduces the likelihood that they reoffend. Preventing prisoners from reoffending reduces cost to the State through reduced costs to victims of crime, social services (such as health, law and order, child protection and others) and lower costs to corrective services through a lower prison population.

The ERA acknowledges that whether or not a prisoner reoffends when they are released is dependent on many factors, many of which are beyond the control of the Department. A number of government agencies have a role in reducing recidivism. However, rehabilitation is a fundamental objective for prisons and the Department is in the position to improve outcomes in this area.

Currently, the Department reports on the rate of return of prisoners, to prison or to community corrections, for prisoners who have completed at least one offender program prior to exit. This measure is useful in that it provides some assessment of the effectiveness of the programs offered in prison. However, by itself it does not provide for a full assessment of the recidivism rates of prisoners released from prison. In particular, the measure does not take into account:

- any prisoner who is released without having undertaken offender programs; or
- prisoner desistance from criminal behaviour. That is, it does not allow an assessment of whether a prisoner who reoffended committed a more (or less) serious offence than when they were originally imprisoned.

The first issue can be addressed relatively simply, by requiring the Department to report on the rate of return to prison and to community corrections of *all* prisoners released, not just those that have completed offender programs. These measures provide a better indication of the rehabilitation of the prisoner cohort, not just the sub-set of prisoners that have participated in programs. Additionally, including measures for prisoners who are released and then return to community corrections provides some indication of their desistance from crime, as offences that result in a community sentence are likely to be less serious than those resulting in a prison sentence.

To ensure continuity in data and to assist in the assessment of the Department's program provision, the existing measure of rate of return for prisoners completing offender programs should also continue to be published.

Measuring the extent of prisoner desistance from criminal behaviour is more challenging and is discussed in more detail below.

6.8.2.1 *Measuring desistance from criminal behaviour*

Offenders, particularly serious offenders, do not typically just stop offending. Instead, offending may become less serious or there may be more time between offences.²⁸⁵ Progress towards rehabilitation may be demonstrated if a former prisoner returns for a less serious crime.

The measures of recidivism currently used by the Department are binary. That is, the measures record only whether or not a former prisoner has reoffended during a two year reporting period following release, with no consideration given to the severity of reoffending. In other words, the measure treats all instances of reoffending as equal, whereas the severity of crimes causing a former prisoner to re-enter corrective services can vary greatly.

For example, using a binary metric, a prisoner that was initially sentenced for assault and is subsequently reimprisoned for petty-theft is recorded the same way if the prisoner had instead returned for murder. As such, binary measures do not establish whether the offender has returned to the prison having progressed or regressed in terms of their offending behaviour.

Additionally, as highlighted by Social Ventures Australia in its submission to the ERA's Issues Paper, using binary metrics carries the risk of creating perverse incentives as prison operators try to meet targets.²⁸⁶ This may occur for two main reasons. Firstly, as prisoners are only recorded as having returned to prison or not, prison operators have the incentive to focus resources on prisoners they deem least likely to reoffend. This may occur at the expense of more complex prisoners whose needs for prison resources are greatest. Secondly, prison operators may divert resources away from prisoners who have already reoffended within the two year reporting period. This is because the binary metric treats single and multiple instances of recidivism equally within the reporting period.

There have been efforts elsewhere to develop more sophisticated measures of recidivism, which consider prisoner desistance from criminal behaviour. For example, Serco, in

²⁸⁵ S. Maruna, *Redemption Scripts and Desistance*, Thousand Oaks, SAGE Publications, 2010, p. 9.

²⁸⁶ Social Ventures Australia, *Submission to the Economic Regulation Authority of Western Australia - Inquiry into the Efficiency and Performance of Western Australian Prisons, Issues Paper*, 2015

combination with the New Zealand Department of Corrections has developed the Out of Custody Index. The Out of Custody Index measures the number of days spent out of custody in the two years following release from prison.²⁸⁷

Developing measures in this area is difficult. Currently, there are very few measures currently used that measure desistance from criminal behaviour. Those that are in place, or in development, such as the Out of Custody Index are often not available publicly.²⁸⁸

In preparing this Final Report, the ERA sought to develop an alternative measure of recidivism that better captures the severity of reoffending behaviour. The ERA has not recommended an alternative measure of recidivism in this Final Report. This is because some of the data required to calculate a potential measure is not readily available (for example, legislated maximum sentence lengths). Nevertheless, the ERA has described a potential method for measuring recidivism below as well as some of the key considerations and issues encountered. The ERA suggests that the Department use the method described below to develop a measure of recidivism in the future.

6.8.2.2 *Developing an alternative recidivism measure*

In developing the measure of recidivism, the first consideration is to establish how the severity of a crime can be objectively quantified. The ERA considered that a simple yet logical way is to use the legislated maximum sentence of a particular crime (in years) as a proxy for its severity. The longer the maximum sentence, the more severe the crime is assessed to be.

The ERA also considered using actual sentence lengths handed down by judges as an alternative. However, the ERA concluded that using maximum sentences has the important advantage of being more objective. This is because the use of actual sentence lengths would introduce the discretion judges have in determining the sentence length according to case-specific factors. Separate cases of identical crimes may result in different sentence lengths. In contrast, legislated maximum sentences are consistent across cases.

The length of the maximum sentences is the fundamental component of the recidivism metric developed by the ERA. For every prisoner there is a value of:

P_1 = maximum sentence length for initial crime

P_2 = maximum sentence length for reoffending crime

In keeping with the Department's existing measures of recidivism, only crimes that are committed within two years of an offender's release are considered as recidivism. Offences committed after the two year period are considered as "initial" crimes.

In cases where an offender is convicted of multiple crimes, the ERA considers that the maximum sentences of their individual crimes should be summed. For example, the value of P_1 for an offender convicted of both murder and assault is equal to the sum of the maximum sentences of the two offences.

Differences between the values of P_1 and P_2 indicate whether a prisoner's offending has become more or less severe. If $P_2 > P_1$, then the prisoner has returned for a more severe crime, as represented by the longer maximum sentence incurred by the reoffending crime. A prisoner has returned for a less severe crime if $P_2 < P_1$. If $P_2 = P_1$, the prisoner has

²⁸⁷ Serco Australia, *Submission to the Economic Regulation Authority: Inquiry into options to improve the efficiency and performance of Western Australian Prisons*, Perth, Serco Australia, 2014, p. 27.

²⁸⁸ The *Out of Custody Index* is considered the Intellectual Property of Serco and therefore details on the measure are not available publicly.

returned for an offence of equal severity. If $P_2 = 0$, the prisoner was released and did not return.

There are several ways a measure of recidivism can be constructed from the values of P_1 and P_2 .

Firstly, the values of P_1 and P_2 can be compared in one of two ways: a difference or a ratio. Taking the difference means comparing P_1 and P_2 by calculating $(P_2 - P_1)$. Alternatively, taking the ratio is a proportional comparison in percentage form and is calculated by $(P_2/P_1)*100$. The ERA considers that the ratio comparison to be the better approach as it better reflects differences in the severity of different types of prisoner. For example, compare prisoner with $P_1 = 20$ and $P_2 = 15$, with another prisoner with $P_1 = 5$ and $P_2 = 0$. A metric comparing P_2 and P_1 by taking the difference would record these two prisoners equally because they have equal values of $(P_2 - P_1)$. However, this will not be the case if the ratio is taken since their values of $(P_2/P_1)*100$ are not equal.

Another consideration is whether to use a mean or median average when combining the differences in values of P_1 and P_2 across all prisoners in the cohort to calculate the measure of recidivism. Given values for individual prisoners of either $(P_2 - P_1)$ or $(P_2/P_1)*100$, a cohort wide assessment can be made by taking the cohort's mean or the median value. The ERA considers the decision to use one or the other should be informed by a more complete assessment of actual data. For instance, if it was found that values of $(P_2 - P_1)$ or $(P_2/P_1)*100$ were normally distributed, the Department should take the mean. However, with a skewed distribution (that is, one containing outliers), it would be more appropriate for the Department to use the median value as measure of central tendency. Therefore, without the real data, it has been difficult for the ERA to make a better informed recommendation on this matter.

Finally, the ERA considers that a measure of recidivism would be more meaningful if it were benchmarked against a target that reflects the likelihood that different types of offender will reoffend. Such a target may take into account the demographics of the offender (such as age and gender) and the initial crime committed. As a hypothetical example, empirical data may show that home burglars typically only offend once and desist from crime following a single prison sentence. It would be expected that when a home burglar is released they are unlikely to reoffend, even without significant intervention in prison. Therefore, if a home burglar is released and is subsequently reimprisoned for additional crimes, this would suggest that the prison system has performed below expectations on rehabilitation.

6.8.3 Assessing the quality of interactions between prison staff and inmates

6.8.3.1 Establishing quality interactions between prison staff and inmates

After the release of the Draft Report, the Department requested that the ERA provide further guidance on measuring the quality of prison staff interactions with prisoners. The ERA considers the quality of day-to-day interactions and relationships between prison staff and prisoners do have a direct effect on prison performance, and has developed recommendations addressing this issue.

This section:

- briefly discusses the importance of establishing quality relationships and interactions;
- describes how the quality of interactions have been measured in prison studies; and

- discusses how assessment of prison standards, objectives, and processes can be applied as an indirect measure of the quality of day-to-day interactions.

6.8.3.2 *Why the quality of interactions between prison staff and inmates matters*

It is well-recognised that the attitude of prison staff towards prisoners contribute to post-release outcomes, and constructive relationships are an important factor in rehabilitation.²⁸⁹

However, establishing quality relationships between prison staff and inmates is sometimes presented as a trade off against safety and security. This is not necessarily the case, as in practice staff often rely on establishing constructive relationships to achieve order and safety in prisons, and foster institutional stability.²⁹⁰ For example, the former Director General of the United Kingdom Prison Service emphasised that behaviours such as ‘addressing [prisoners] courteously, by the name they prefer; asking not ordering; listening to what they are saying; being sensitive to their feelings about being locked up’ were critical in establishing good control.²⁹¹

Hence, quality of interactions between prison staff and prisoners is a factor in meeting both rehabilitation objectives, and security and safety benchmarks.

6.8.3.3 *Measuring the quality of interactions between staff and prisoners*

The nature and quality of such interactions are difficult to measure, as they occur continuously and do not always generate data that be collected and assessed. However, a number of academic studies have undertaken measurement using a combination of:

- surveys of prisoners;
- surveys of staff;
- direct observation of interactions by researchers; and
- interviews with staff and inmates.

These studies establish a baseline of the quality of interactions at a point in time, but can be large and costly undertakings.

The ERA considers that ongoing measurement can also be conducted indirectly by assessing standards, objectives, and training processes prisons put in place to foster quality interactions and constructive relationships. Measurement can include assessing whether appropriate standards and processes are in place, and whether they are adhered to over time. A similar emphasis on good process is seen internationally, where prison managers tend to use standards, guidelines, and codes of conduct to promote constructive staff-prisoner interactions. These are used to ensure that staff understand the behaviours they are expected to practice on a day-to-day basis, and promote a focus on rehabilitation and reintegration.

²⁸⁹ Kjelsberg, E., Skoglund, T. H., & Rustad, A. B., ‘Attitudes towards prisoners, as reported by prison inmates, prison employees and college students’. *BMC Public Health*, 7(1), 71, 2007; Home Office, *Managing the Long-Term Prison System: The Report of the Control Review Committee*, London, Government of the United Kingdom, 1984; Laws, D. R., and Ward, T., New York, *Desistance from sex offending: Alternatives to throwing away the keys*, Guilford Press, 2011.

²⁹⁰ Liebling, A., Price, D. and Shefer, G., *The Prison Officer*, New York, Routledge, 2010.

²⁹¹ Pilling, J. ‘Back to basics: Relationships in the prison service. Eve Saville Memorial Lecture to the Institute for the Study and Treatment of Delinquency’, *Relationships in Prison*, 1992.

However, the social aspect of prison work is relatively underemphasised in Australia.²⁹² International guidelines are far more explicit on the purpose and conduct of prison staff-prisoner interactions, noting that prison work is a critical social service, and that prison officers should behave in a manner that provides a good example for prisoners.²⁹³ For example, the European Prisoner Rules state that the duties of prison staff 'go beyond those required of mere guards and shall take account of the need to facilitate the reintegration of prisoners into society after their sentence has been completed through a program of positive care and assistance'.²⁹⁴ Consistent with these guidelines, a number of European states, including Germany, Denmark, the Netherlands, Norway and Sweden have implemented these overarching principles in both legislation and day-to-day operational practices.²⁹⁵

The ERA recognises that the task of establishing such relationships in a prison environment is challenging work that requires a high degree of skill, and has not been consistently prioritised in Australia. As such, staff need strong support from management in developing capabilities in this area.²⁹⁶

The ERA considers better prisoner engagement can be fostered by establishing clear standards, objectives, and training processes that reflect those seen in international models. The adherence of each prison to the principle of high quality staff-prisoner interactions can be measured regularly by applying this following checklist:

²⁹² For instance, the Standard Guidelines for Corrections in Australia merely notes that '[c]onsistent with the security and good order of the prison, interaction between staff and prisoners should promote dignity and respect'. (State and Territory Governments of Australia, *Standard Guidelines for Corrections in Australia (Revised 2012)*, Canberra, Australian Institute of Criminology, 2012.)

²⁹³ Office of the High Commissioner for Human Rights, *Standard Minimum Rules for the Treatment of Prisoners*, Geneva, United Nations Social and Economic Council, 1977.

²⁹⁴ Council of Europe Committee of Ministers, *European Prison Rules*, Strasbourg, Council of Europe, 2006. Similarly, the European Code of Ethics for Prison Staff makes a similar point, and discusses a variety of underlying principles and practices. (Council of Europe Committee of Ministers, *European Code of Ethics for Prison Staff*, Strasbourg, Council of Europe, 2012.)

²⁹⁵ For example, the standard and type of interactions expected between prison staff and inmates in Germany are informed by Section 3(1) of the *Gesetz über den Vollzug der Freiheitsstrafe und der freiheitsentziehenden Maßregeln der Besserung und Sicherung (German Prison Act (1976))*, which requires that 'life in prison institutions shall as much as possible resemble general living conditions outside prisons'. (Smit, D. (Ed), *Imprisonment today and tomorrow: International perspectives on prisoners' rights and prison conditions*, Boston, Martinus Nijhoff Publishers, 2001.) This is also seen in some of Denmark's low-security open prisons, where staff refer to inmates as their 'clients', allocate a personal prison officer to each prisoner as a key point of contact, establish processes that respect the privacy of prisoners, and maintain a committee of prisoners with a representative group that meets regularly with the prison's Governor. (Dissel, A., *Report on Correctional Services Tour to Denmark, Holland and Britain*, Research report written for the Centre for the Study of Violence and Reconciliation, 1995.)

²⁹⁶ For instance, the Inter-American Commission on Human Rights, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas recommends staff be provided with 'periodic specialized training, with an emphasis on the social nature of their work', and the Generalitat de Catalunya Centre d'Estudis Jurídics i Formació Especialitzada details both the specific behaviours expected of prison officers in their relation to communication and conflict management, and outlines a structure of training programs intended to support these behaviours. (Generalitat de Catalunya Centre d'Estudis Jurídics i Formació Especialitzada, *The specialised training of prison security guards*, Government of Catalonia, 2013.)

Checklist for assessing standards, objectives, and training processes for interactions between prison staff and inmates

1. Does the prison have a code of conduct (or manual of standards) for prison staff?
2. Is the code of conduct a public document?
3. Does the code of conduct explicitly address the behaviours expected of prison officers in their interactions with inmates?
4. Do the expected behaviours incorporate those that guide prison officers in establishing good communication and positive relationships with prisoners?
5. Is the code of conduct subject to periodic review?
6. Is the code of conduct explicitly addressed in annual performance reviews?
7. Is the code of conduct provided to all staff upon commencement of duties, and easily accessed by staff at any time?
8. Does the prison provide training (both on commencement and ongoing) on the importance of the social nature of prison work (including but not limited to training on human rights, national and international principles regarding the treatment of prisoners, and effective communication and conflict management in dealings with prisoners)?
9. Does the prison articulate objectives for prison officers that reference to the importance of the social nature of prison work, and the importance of staff interactions with prisoners in achieving these objectives?

The ERA also recognises that the quality of interactions between prison officers and prisoners is also implicitly recognised in other performance measures, such as prisoner complaints and grievance proceedings, frequency of loss of control, and the level of participation in programs. The interactions between prison staff and prisoners are influential in achieving good outcomes with respect to these benchmarks.

6.8.4 Department-wide performance measures

Table 21 Recommended Department-wide performance measures

Performance measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?
Number of escapes or unlawful releases	The number of incidents of a prisoner escaping or being unlawfully released from custody.		This provides a measure of the prison system's performance in ensuring community safety.	Yes, the Department already reports on escapes as a performance measure.	Escapes are commonly used as a performance measure for prison systems.
Rate of return prison-to-prison	The total number of prisoners released who reoffended and were sentenced to prison within two years of release divided by the total number of prisoners released in the period.		The recidivism rate of the prison population provides a measure of how well a prisoner is being rehabilitated.	Yes.	Rate of return to prison is commonly used as a performance measure.
Rate of return prison-to-Corrective Services	The total number of prisoners released who reoffended and received an order to community corrections within two years divided by the total number of prisoners released in the period.		Measuring the number of prisoners who return to community corrections in combination with those returning to prison provides an indication of whether released prisoners are committing less serious crimes.	Yes.	

Performance measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?
Rate of return - offender program completers (prison-to-Corrective Services)	The total number of prisoners released who completed at least one offender program and reoffended and received a prison sentence or an order to community corrections within two years divided by the total number of prisoners released who had completed at least one offender program.		In addition to the above measures of recidivism, measuring recidivism of program completers gives some measure of the effectiveness of the Department's rehabilitation programs.	Yes, the Department already reports on this performance measure.	
Rate of serious assault	The total number of prisoners who are seriously assaulted across the prison system during the reporting period divided by the total of the prison's daily average population for the entire prison system for the reporting period.	A serious assault occurs when the victim requires medical treatment involving an overnight stay in a medical facility.	Assault rates provide an indication of how safe prisoners are across the system.	Yes, the Department already reports on this performance measure.	Assaults in custody are reported in the Productivity Commission's <i>Report on Government Services</i> .
Out-of-cell hours	The average number of hours in a 24-hour period that prisoners are not confined to their cells across the prison system.		Out-of-cell hours provide an indication of the Department's provision of a safe, secure and humane prison environment.	Yes, the Department already reports on out-of-cell hours as a performance measure.	Out-of-cell hours are reported in the Productivity Commission's <i>Report on Government Services</i> .

Performance measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?
Prisoner to prison officer ratio	The prison system's daily average population divided by the daily average number of FTE prison officers.		Prisoner to prison officer ratio provides detail about the staffing levels of prisons.	Yes.	This data is produced in the Productivity Commission's <i>Report on Government Services</i> .

The following table contains information on the Department's performance against the recommended performance measures between 2011-12 and 2014-15.

Table 22 Department performance (2011-12 to 2014-15)

Measure	2011-12	2012-13	2013-14	2014-15
Escapes or unlawful releases	7	10	15	9
Rate of return prison-to-prison	36%	36%	39%	36%
Rate of return prison-to-Corrective Services (prison or community corrections)	44%	43%	45%	43%
Rate of return - offender program completers (prison-to-Corrective Services)	43%	42%	40%	41%
Rate of serious assault	0.40%	0.55%	0.48%	0.68%
Out-of-cell hours	12.46	12.55	12.55	12.44
Prisoner to prison officer ratio	n/a	n/a	n/a	2.05

Source: Department of Corrective Services.

6.8.5 Management information

Table 23 Management reporting information

Measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?	Why is it management information?
Prison utilisation rate	The daily average population for each prison divided by the design capacity for each prison.	Utilisation rate means the annual daily average prisoner population as a percentage of the number of single occupancy cells and designated beds in shared occupancy cells provided for in the design capacity of the prisons.	Understanding the capacity of prisons is important in understanding the extent of crowding in the prison system. Doing so assists in planning and ensuring information that stakeholders use is consistent with information of the Department.	Yes.	Utilisation rates are published in the <i>Productivity Commission's Report on Government Services</i> .	There is a balance between using infrastructure efficiently (that is, having as little wasted capacity as possible) and ensuring that prisoners are afforded the services they require. Therefore, it is unclear whether an increase or decrease in a prison's utilisation rate is a good or bad outcome without further information. Therefore, utilisation rates are not a good indication of performance without additional contextual information.

Measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?	Why is it management information?
Cost per prisoner per day	Total cost of the prison divided by the prison's daily average population divided by days in the year.		Cost per prisoner per day is an efficiency measure.	Yes. Total cost per prisoner per day is reported by the Department.	Cost per prisoner per day is not used as a performance measure in any of the jurisdictions assessed.	There are a number of concerns about cost per prisoner per day as a measure of the performance of individual prisons. These concerns are articulated in Chapter 3. The ERA has not included cost per prisoner per day as a performance measure because Superintendents are able to control very few of the items included in this measure, and because a higher cost may reflect higher quality. However, the ERA considers that it should be published as it provides useful information to stakeholders and the Department.

Measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?	Why is it management information?
Use of separate confinement	Total hours of separate confinement used divided by a prison's daily average population.	Separate confinement is used to seclude prisoners for disciplinary reasons.	High levels of separate confinement are either an indication of it being used inappropriately or of poor behaviour of prisoners. Either way, it can be used to assess prison performance.	No, the Department does not currently collect data on the time prisoners spend in separate confinement.	No prisons in Western Australia currently have information on the use of separate confinement as performance measures. It is not used in New Zealand or the United Kingdom either.	Separate confinement can be a necessary disciplinary and safety tool for Superintendents. Therefore, it is important to appreciate that there are situations where increased use of separate confinement reflects appropriate management. For this reason, the ERA considers separate confinement should not be a performance benchmark.
Overtime hours	Total overtime hours worked by prison officers divided by average number of FTE prison officers employed during the reporting period.		The use of overtime by prison officers has consistently been identified as an issue by stakeholders. It is a significant component of salary cost. In theory, overtime should only occur as a short-term solution, or if management has failed to plan and roster appropriately, or there is excessive unplanned staff absences.	Yes.	Overtime hours are not currently used as a performance measure in any of the jurisdictions assessed.	The ERA appreciates that there are situations where some use of overtime as a short-term solution is necessary for the good management of a prison. For this reason, the ERA has decided not to include this as a performance measure. However, the ERA considers that information on overtime provides useful information and should continue to be monitored.

Measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?	Why is it management information?
Overtime expense	Total prison officer overtime expense divided by total prison officer salary expense.		This measure is included in combination with overtime hours so that prison operators have an incentive to decrease the overtime of highly paid staff, not just the staff where hours can be decreased most easily.	Yes.	Overtime expense is not currently used as a performance measure in any of the jurisdictions assessed.	The ERA appreciates that there are situations where some use of overtime as a short-term solution is necessary for the good management of a prison. For this reason, the ERA has decided not to include this as a performance measure. However, the ERA considers that information on overtime provides useful information and should continue to be monitored.

Measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?	Why is it management information?
Workers' compensation taken	Total hours of workers' compensation taken by staff divided by average FTE.		<p>Workers' compensation claims at individual prisons can be comparatively high for two reasons:</p> <ul style="list-style-type: none"> • the prison is less safe than other prisons; or • there are staff cultural issues that are leading to excessive volume of workers' compensation claims. <p>Both of these reasons should be able to be influenced by good management in OHS or by improving workplace culture.</p>	Yes.	Workers' compensation hours are a performance measure for all public prisons in the State. It is not a performance measure in private prisons or in New Zealand or the United Kingdom.	Rates of workers' compensation claims should not be a performance measure because it may for example, introduce a situation whereby Superintendents may seek to discourage prison staff from claiming workers' compensation when it is required. This would represent a perverse incentive. However, this measure should continue to be monitored as Superintendents need to have good information on the rate at which prison staff are being injured in the course of their work so that appropriate measures can be put in place.

Measure	Formula	Further detail	Rationale	Is the data available?	Is it used elsewhere?	Why is it management information?
Staff personal leave	Total hours of personal leave taken by staff divided by the average FTE for the period.		<p>High use of personal leave can be a result of two reasons:</p> <ul style="list-style-type: none"> • an unhealthy staff; or • a poor staff culture leading to excessive use of personal leave. <p>Management should have some influence over both of these factors.</p>		Personal leave hours are a performance measure for all public prisons in the State and in the United Kingdom. It is not a performance measure in private prisons or in New Zealand.	Staff personal leave should not be used as a performance measure as it may result in prison Superintendents seeking to discourage staff from taking personal leave when necessary. An increase in personal leave may simply reflect an increase in illness and therefore not be an indication of poor performance.

The ERA has not been able to obtain the data necessary to provide management information for all of the measures that it has recommended in this Final Report. In the tables below, the ERA has provided the data that it does have, for the most recent period available to it. The ERA is unable to provide data on the use of separate confinement, personal leave taken by staff, or prison utilisation rates based on design capacity.

The data for workers' compensation and staff personal leave is derived from public prison performance reports provided by the Department. The performance reports have not been audited and therefore, the accuracy of the data in this section cannot be guaranteed.

Table 24 Cost per prisoner per day (2013-14 financial year) (\$ nominal)

Prison	Cost per prisoner per day
Acacia	\$188
Wandoo	\$726
Albany	\$353
Bandyup	\$373
Boronia	\$323
Broome	\$1,428
Bunbury	\$322
Casuarina	\$354
Eastern Goldfields	\$650
Greenough	\$346
Hakea	\$301
Karnet	\$331
Pardelup	\$343
Roebourne	\$562
West Kimberley	\$764
Wooroloo	\$262
All prisons	\$334

Source: Department of Corrective Services.

Table 25 Overtime management information (2013-14 financial year)

Prison	Average overtime hours per FTE	Overtime expense as a percentage of total salary expense
Acacia	n/a	n/a
Albany	336	13%
Bandyup	398	15%
Boronia	177	6%
Bunbury	339	13%
Casuarina	611	24%
Eastern Goldfields	293	12%
Greenough	316	11%
Hakea	554	23%
Karnet	383	15%
Pardelup	307	12%
Roebourne	409	15%
Wandoo	n/a	n/a
West Kimberley	431	17%
Wooroloo	432	17%
All prisons	441	17%

Source: Department of Corrective Services.

Table 26 Average hours of workers' compensation per FTE per month (2014)

Prison	Average hours of workers' compensation
Acacia	n/a
Albany	2.1
Bandyup	2.2
Boronia	0.0
Bunbury	6.2
Casuarina	7.4
Eastern Goldfields	0.1
Greenough	1.9
Hakea	4.9
Karnet	2.1
Pardelup	0.9
Roebourne	2.5
Wandoo	n/a
West Kimberley	0.5
Wooroloo	7.3

Source: Department of Corrective Services.

Table 27 Average hours of personal leave per FTE per month (2014)

Prison	Average hours of personal leave
Acacia	n/a
Albany	8.7
Bandyup	9.1
Boronia	7.7
Bunbury	10.2
Casuarina	10.1
Eastern Goldfields	6.9
Greenough	9
Hakea	5.1
Karnet	8.6
Pardelup	8
Roebourne	10.2
Wandoo	n/a
West Kimberley	8.1
Wooroloo	11.8

Notes: Personal leave does not include annual leave.

Source: Department of Corrective Services.

6.9 Recommendations

The ERA recommends that:

- 8) The Department of Corrective Services uses a weighted scorecard approach to benchmark prison performance.
- 9) The Department of Corrective Services measure prison performance in the categories of safety and security, rehabilitation, prisoner quality of life and prison management using the performance measures detailed in Table 17 of this report and in the Prison Benchmarking Manual, and report publicly on these measures.
- 10) The Department of Corrective Services review the incentives resulting from the weighted scorecard two years after implementation and introduce new incentives if appropriate.
- 11) The Department of Corrective Services expand the indicators reported in its corporate scorecard to include the performance measures listed in Table 21 of this report and in the Prison Benchmarking Manual, and report publicly on these measures.
- 12) The Department of Corrective Services compile the management information measures detailed in Table 23 of this report and in the Prison Benchmarking Manual, and report publicly on these measures.
- 13) The Department of Corrective Services implement data collection processes to allow for the measurement of prison and corporate performance measures, and for management information measures, where data is not currently available.
- 14) The Department of Corrective Services regularly audit each prison's service capacity and its staffing levels to ensure that services and staffing capacity remain consistent with the prison's design capacity.
- 15) The Department of Corrective Services report utilisation rates based on design capacity for each prison, and for the prison system as a whole.
- 16) The Department of Corrective Services apply and report on compliance with the checklist for assessing standards, objectives, and training processes for interactions between staff and prisoners provided in this report, as applied to each prison.

7 Effective planning, processes, and use of information

7.1 Introduction

In order to perform well, the Western Australian prison system must be supported by effective planning, processes, and use of information. These practices underpin sound evidence based decision-making. They also determine the capacity of the Department to measure outcomes, and to be transparent about, and accountable for those outcomes.

However, the Department faces a number of longstanding issues with its planning and processes, and in the way in which it collects and uses information to make good decisions. Addressing these issues will assist the Department to perform efficiently and meet its objectives, both now and in the future.

In this chapter, the ERA examines the processes applied by the Department to make decisions that are supported by high quality information and analysis. It also addresses the ways in which better information and data management can improve transparency, accountability, and service delivery.

- *Infrastructure planning* – Prison infrastructure is a substantial cost component of the prison system.²⁹⁷ Well-defined plans and processes for infrastructure are necessary to ensure that money is well spent and provides the best outcomes for the State. The ERA recommends that the Department: refine its forecast of the prison population by using a population projection model built by the Department of Treasury in tandem with its present model; establish a long-term plan for prison infrastructure; and ensure that infrastructure expenditure is targeted towards high priority needs.
- *Planning and evaluating program delivery* – The Department is responsible for delivering a range of programs to prisoners. The ERA has identified opportunities for the Department to: better assess and evaluate the program needs of individual prisoners; and better assess, at a system wide level, how effective programs have been at addressing the needs of prisoners collectively.
- *Administrative information and financial management* – The ERA has identified opportunities for improvement of a number of the Department's administrative systems and processes. The ERA's recommendations aim to ensure that the Department maintains good control over its funds, staffing arrangements, and records that support the performance and efficiency of the prison system.
- *Information sharing and transparency* – Appropriate information sharing processes and policies can support the performance, accountability, and transparency of the prison system. The ERA has identified two areas where there are opportunities for the prison system to benefit from better information sharing. These are the way in which the Department shares information with external service providers (particularly providers of post-release services), and the extent to which the Department makes non confidential data about its operations available to the broader public.

²⁹⁷ For detail on prison infrastructure expenditure in Western Australia, see Department of Corrective Services, *Annual Report 2013-2014*, Perth, Government of Western Australia, 2013, p.113.

7.2 Infrastructure planning

7.2.1 Introduction

Infrastructure spending is a substantial part of the cost incurred in operating a prison system.²⁹⁸ Well-defined plans and processes for infrastructure development are essential for ensuring that money is well spent and that funds are directed where they are most needed to provide the best outcomes for the State.

The Department complies with the requirements of the State Government for infrastructure planning, and is seeking to improve its internal processes as part of current reform efforts. However, the ERA considers there is scope for further improvement in this area, including:

- better forecasting of the long-term prison population;
- establishing a robust long-term plan for prison infrastructure;
- undertaking better prioritisation of infrastructure expenditure (particularly in relation to the women's estate); and
- better resourcing of infrastructure planning to help ensure that future infrastructure spending is targeted and well considered.

These opportunities for improvement are discussed in detail below, following a brief discussion of the Department's current approach to infrastructure planning.

An overview of the State Government requirements relating to good infrastructure planning, and how the Department complies with these requirements, is set out in Section A4.1 of Appendix 4.

7.2.2 Summary of submissions on the Draft Report and ERA response

The CPSU/CSA notes that the Draft Report did not comment on the role of respective Governments and Ministers in determining infrastructure priorities, and expressed concern that effective Departmental planning of the prison estate has been overridden by a series of short-term 'revamps' to satisfy political objectives.

7.2.2.1 ERA response

The ERA agrees that robust, long-term planning in the public sector can be undermined by poorly-evidenced decisions and election commitments. The ERA's 2014 *Inquiry into Microeconomic Reform in Western Australia* discussed this issue at length, recommending the Government '[a]pply project evaluation processes, including cost-benefit analysis, consistently and rigorously to all major infrastructure projects', 'subject all election commitments to rigorous project evaluation processes before being included in the State Budget', and 'publish the outcomes of all major project evaluations'.²⁹⁹

The ERA considers that these recommendations are relevant to the Government's management of the prison system in Western Australia. Additionally, the ERA considers that improving the Department's capacity to evidence population forecasts and expenditure

²⁹⁸ For detail on prison infrastructure expenditure in Western Australia, see Department of Corrective Services, *Annual Report 2013-2014*, Perth, Government of Western Australia, 2013, p.113.

²⁹⁹ Economic Regulation Authority, *Inquiry into Microeconomic Reform in Western Australia: Final Report*, Perth, Government of Western Australia, 2014, p.76.

plans (as discussed in this section) will provide the Department with an improved capacity to assist and inform future governments in both long and short-term decision-making.

7.2.3 Better forecasting of the prison population

Reliable forecasting of the demand for prison services (that is, the future prison population) is important to the efficient planning of prison infrastructure.³⁰⁰ Accurate forecasts assist the Department and the Government in making decisions that are informed by the future needs of the Western Australian prison system. However, the ERA is concerned that the Department's current population forecasting model limits its ability to provide well-evidenced advice to the Government.

The Department currently uses a regression model (**the regression model**) to forecast Western Australia's likely future prison population. The main benefits of the regression model are that it is relatively simple to operate and the Department has found the model to be reasonably accurate in the medium-term. However, the ERA has the following concerns with use of the regression model as the Department's only means of forecasting the prison population:

- The ERA considers that the model has been accurate, at least in part, because past justice policy decisions have progressively become 'tougher on crime'. The model is less likely to be accurate if there is a change in policy direction. This is because models of this kind do not attempt to understand and explain the reasons for changes in the prison population.³⁰¹
- The model is not well suited to modelling future hypothetical scenarios, which would allow the Department to inform the Minister and Cabinet about the likely effect of proposed policy changes on prisoner numbers and costs. This is particularly concerning, since one of an agency's key roles is to provide Government with robust information to support well-evidenced policy decisions.

The Department of Treasury is in the process of building a micro-simulation model (**the micro-simulation model**) to forecast the prison population due to its concerns about the capacity of the regression model. This model will be handed over the Department of Corrective Services upon its completion.

An explanation of the key differences between these models is provided in Section A4.2 of Appendix 4 in addition to an overview of the main benefits of using a micro-simulation approach. The ERA considers that the benefits are significant and will improve the Department's ability to understand its operations on a more detailed level, and to provide better advice to Government.

Ultimately, there is no reason that the models should not be run in tandem to realise the benefits of both, drawing on both the familiar regression model and the more sophisticated micro-simulation model where each is fit-for-purpose. In any case, it would be essential to run the models in tandem for several years simply from a risk management and best practice development point of view.³⁰²

³⁰⁰ This involves not only forecasting the overall prison population, but also the demographic composition of the prison population (that is, gender, security level, age, ethnicity), which has an effect on the types of infrastructure and services that need to be provided.

³⁰¹ Department of Treasury, *An Experimental Prisoner Projection Model for Western Australia*, report prepared by N. Riste and K. Sibma, Perth, Government of Western Australia, 2014, p. 12.

³⁰² It will also be important to regularly review the outputs of the model to track how closely they match actual results, and to assess how and why actual outcomes have diverged from those predicted by the model.

The ERA considers that several implementation issues will need to be managed to ensure successful adoption of the micro-simulation model. These implementation issues are listed below, with more detail provided in Section A4.2 of Appendix 4.

- *Agreeing upon inputs and forecast scenarios* – Obtaining broad, ongoing consensus on the inputs and scenarios used by the model, as agreed by a justice sector Governance Committee.³⁰³
- *Ensuring ongoing data quality* – Ensuring the data in the model is updated in a timely and efficient manner, and seeking to automate this process as much as possible
- *Ensuring integrity and accountability* – Publishing information about the Department’s model (as listed in Section A4.2), so that it can be understood and challenged by external stakeholders.

7.2.4 Establishing a long-term infrastructure plan

Good long-term planning is critical to the efficiency and performance of the prison system, particularly considering the time and costs involved in implementing major infrastructure decisions. A lack of such planning can have significant consequences for the ability of the prison system to meet the demands placed upon it. The constraints on the juvenile justice system arising from the establishment of Wandoo and accompanying redevelopment of Banksia Hill Detention Centre, as detailed in Box 6, provides an example of these consequences.

Butts, J, & W Adams, *Anticipating space needs in juvenile detention and correctional facilities*, US Department of Justice, Washington D.C., 2001, p. 18.

³⁰³ This Governance Committee would incorporate representatives from the Department of the Attorney General, Western Australian Police, Department of Corrective Services, and other departments with knowledge of the drivers of the prison population. The Committee would also provide guidance as to the effect of policy changes on the prison population. The ERA supports this approach, and notes that research on prison population modelling generally endorses the involvement of a panel. For instance, Stewart, A, N Spencer, I O’Connor, G Palk, M Livingston, & T Allard, *Juvenile Justice Simulation Model: A Report on the Australian Research Council Strategic Partnerships with Industry Research and Training*, Brisbane, Griffith University, 2004, p.18; Harries, R, *Criminal Justice Modelling*. London, Home Office Strategy Policy Team, 2000, pp. 52-53.

Box 6 - Case study: the Banksia Hill redevelopment project

In 2008, the incoming Government made an election commitment to upgrade the State's prison infrastructure. This included the establishment of a new young adult facility (to accommodate 18 to 24 year old minimum-security prisoners).

The Department was asked to provide advice on how this young adult facility could be established. The Department recommended to the Minister for Corrective Services that an existing juvenile remand facility (for 10 to 17 year olds), the Rangeview Remand Centre, be converted into a young adult facility (the present Wandoo Reintegration Facility). In addition, the Department recommended the detainees from Rangeview be relocated to Banksia Hill Detention Centre and that Banksia Hill be expanded to accommodate additional juvenile detainees.

The Office of the Auditor General found the Department did not adequately consider the long-term impact of the solution it recommended.³⁰⁴ The approach did not appear to take into account the best outcomes for the prison system as a whole. The decision left the Department with only one juvenile facility in the State, and resulted in no significant increase in overall juvenile capacity.³⁰⁵

The ERA considers that, with a good long-term plan in place, the Department would have been far more capable of efficiently assessing the alternatives and presenting them to Government, along with evidence supporting a preferred option.

Good long-term planning requires an understanding of the investments that make best use of available funds, and an ongoing commitment to implementing those investments. Following through on investment plans also relies on the Government's support for infrastructure decisions, and appropriation of the necessary funds via the State Budget. There is a risk that this support and funding will not be provided if plans are not clearly articulated and the costs and benefits are not well-evidenced and quantified.

In the past, the Department has undertaken 'logic mapping'³⁰⁶ exercises to decide between investment alternatives. The ERA considers this practice should be repeated as it not only assists the Department in assessing various investment options, but also allows it to provide high quality, well-evidenced advice to Government about the likely outcomes of any given decision. This is critical in ensuring that Government is well informed and able to make decisions that support the future efficiency and performance of the prison system.

The ERA considers that this logic mapping should be used to develop and commit to a long-term plan for the management and development of the prison estate. This exercise should be conducted in a manner consistent with the Strategic Asset Management Framework policies and standards, to ensure Government receives accurate and reliable information on the available alternatives and the basis for determining the preferred options.

The ERA further considers that this exercise will benefit from engagement with key stakeholders, including the Office of the Inspector of Custodial Services. This process will not only ensure the plan is informed by external expertise, but will also provide stakeholders with an accurate and consistent understanding of the investment alternatives, and the reasoning driving the selection of preferred options.

³⁰⁴ Office of the Auditor General, *The Banksia Hill Detention Centre Redevelopment Project*, Perth, Government of Western Australia, 2013, p. 8.

³⁰⁵ Office of the Auditor General, *The Banksia Hill Detention Centre Redevelopment Project*, Perth, Government of Western Australia, 2013, p. 15.

³⁰⁶ Logic mapping is a systematic way of developing the key steps required in order to turn a set of resources or inputs into activities that lead to a specific set of changes or outcomes.

Source: Department for Transport, *Logic mapping hints and tips*, London, Government of the United Kingdom, 2010, p. 5.

Finally, the ERA advises that the Department publish this plan on its website. This will serve to increase transparency and accountability, provide stakeholders with greater confidence around its long-term planning, and clearly articulate the reasons for investment decisions.

7.2.5 Better prioritisation of infrastructure expenditure

The ERA considers that there is scope for improvement in the way in which the Department prioritises its capital works projects.

Bandyup provides a good example of questionable prioritisation. The prison's new, modern gatehouse (that is, main entrance) sits alongside older infrastructure that has been described as "deteriorated, out date, and inadequate" by the Office of the Inspector of Custodial Services.³⁰⁷ The ERA's observations during a visit to the prison supported this description.

The Office of the Inspector of Custodial Services noted that the funds used to construct the gatehouse would have been better allocated to improving facilities that would have more direct impact on management, staff, prisoners, and visitors, including the prison's Outcare centre, reception building, and other support facilities.³⁰⁸

The ERA is also concerned that a lack of investment in the women's estate has been a consequence of poor prioritisation of capital works. In recent years, there has been substantial investment in male prison accommodation, but relatively little investment in female prisons, despite rapid growth rate in the number of female prisoners.³⁰⁹

While there was a strong focus on improving management of women's prisons throughout the early 2000s, this appears to have declined over the past decade, and is observable both directly in terms of prison conditions, and indirectly in the Department's structure. (For instance, the executive level position of Director for Women's Corrective Services, established in 2003, no longer exists.)³¹⁰

Consequently, conditions in the State's women's prisons are of a lower standard than those in men's prisons. This has led to criticism of the Department's management of women's prisons. A 2014 report from the Office of the Inspector of Custodial Services described the prison's poor layout and inadequacies in services, attributing these problems in large part to a lack of investment, and a lack of prioritisation of investment.³¹¹ Having visited prisons and reviewed the findings of inspections, the ERA is similarly concerned about the state of the women's prison estate.

As a result of escalating pressures in the women's estate, in 2014, the Government announced its plan to transform existing parts of the male-only Hakea Prison into a women's remand facility.³¹²

³⁰⁷ Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bandyup Women's Prison*, Perth, Government of Western Australia, 2014, p.9.

³⁰⁸ Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bandyup Women's Prison*, Perth, Government of Western Australia, 2014, p.17.

³⁰⁹ Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bandyup Women's Prison*, Perth, Government of Western Australia, 2014, p.61.

³¹⁰ Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bandyup Women's Prison*, Perth, Government of Western Australia, 2014, p.9.

³¹¹ The report commented that "no other prison [in the Western Australian prison system] is this overcrowded" and described living conditions at the prison as "unhygienic, lacking in privacy and totally unacceptable", contrasting this with the better conditions in male prisons. The report Office of the Inspector of Custodial Services, *Report of an Announced Inspection of Bandyup Women's Prison*, Perth, Government of Western Australia, 2014, p. iv.

³¹² Government of Western Australia, 2014, 'Major revamp for women's prison estate', Media Statements, published on 15 December 2014, Perth.

The Department has informed the ERA that it has recently established a steering committee for the women's estate. This committee has a mandate to deal with a broad range of issues related to the women's estate, beyond issues of infrastructure and planning. The ERA considers that this has provided the Department with an improved capacity to assess the infrastructure requirements of women's prisons in Western Australia, and recommends that responding to these infrastructure needs should be a priority for the steering committee.

7.2.6 Recommendations

The ERA recommends that:

- 17) The Department of Corrective Services adopts the micro-simulation model as the primary prisoner population projection model for the Western Australian Government, after an appropriate trial period agreed with the Department of Treasury.
- 18) The Department of Treasury establish a standing cross-agency governance committee to inform the inputs and choice of scenarios for the micro-simulation model, and reconvene the committee on a regular basis to provide guidance on policy or major demographic changes.
- 19) The Department of Corrective Services use the micro-simulation model to provide ongoing feedback to the Minister and Cabinet on the effects of any proposed policy change on prisoner population forecasts, including an assessment of the relative effects of alternative policies.
- 20) The Department of Corrective Services publish information about the underlying assumptions, inputs, methodology, and outputs of each of its models, as well as information about the variance between forecast and actual values.
- 21) The Department of Corrective Services conduct a logic mapping exercise to identify a long-term plan for the prison estate, and publish the plan on its website.
- 22) The Department of Corrective Services engage key stakeholders more in the development and prioritisation of capital expenditure decisions.
- 23) The Department of Corrective Services place a greater focus on the women's prison estate. In particular, the infrastructure needs of the women's estate should be a high priority for the women's estate steering committee.

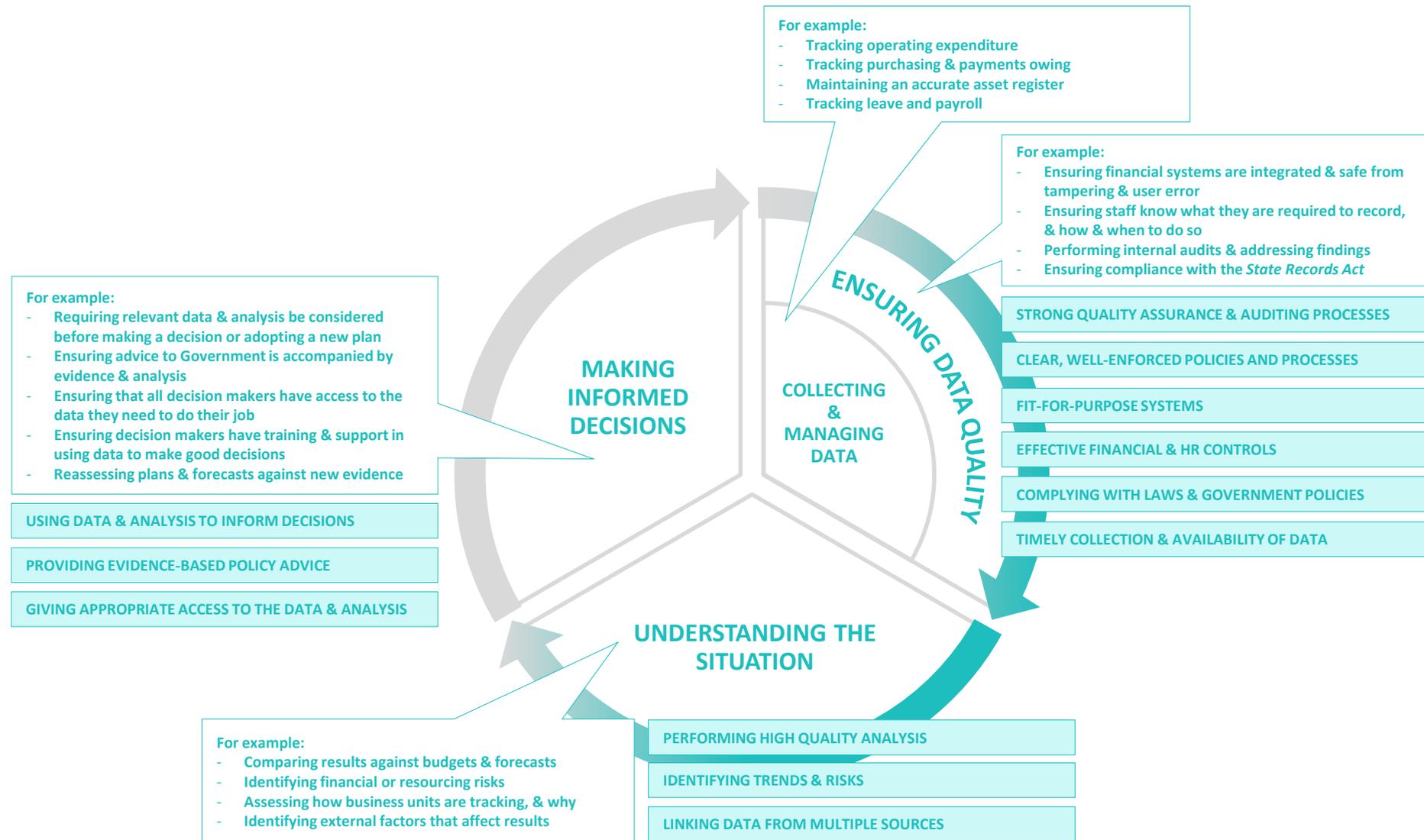
7.3 Managing and using information for good decision-making

Decisions will only be as good as the evidence on which they are based. If information is to be used to support good decision-making and planning, it must be appropriately collected, stored, and quality-assured.

Only then can it be analysed and used to undertake cost-benefit analysis, inform contracting and procurement decisions, design better rehabilitation programs, or any one of a multitude of other tasks the Department undertakes. Figure 23 overleaf illustrates this process.

In investigating how well the Department manages information and uses it to inform decision-making, the ERA has considered two broad areas: the Department's planning and evaluation of programs delivered to prisoners; and the Department's management of administrative and financial information.

Figure 23 Building a strong information and decision-making framework



7.3.1 Summary of submissions on the Draft Report and ERA response

The ERA received submissions on the Draft Report discussing the following topics:

- rehabilitation programs;
- Indigenous-specific programs; and
- provision of health and mental health services.

These topics are addressed below.

Submissions to the Draft Report did not comment on the Department's management of administrative and financial information, nor on record keeping practices.

7.3.1.1 Rehabilitation programs

Professor Podmore, ACEA, and the CPSU/CSA commented on rehabilitation programs provided in prisons.

Professor Podmore submits that offender behaviour programs provide an example of how inefficiencies can be bred into the system, noting that the starting point for any intervention should be a comprehensive assessment of prisoner need, which should be regularly repeated to reflect the changing nature of the prison population. He also states that efficacy and appropriateness of interventions rests in comprehensive research and testing.

ACEA states that court-mandated programs take precedence over all other rehabilitation activities, "in a race to complete them prior to the prisoner being released". It questions whether this is appropriate for all prisoners, and whether other activities might deliver a greater benefit. It also questions whether the ERA has taken an overly simplistic approach in discussing how to identify and address prisoner needs.

The CPSU/CSA agrees that there is scope to improve the Department's program allocation and prisoner intake processes, but disputes a number of statements made in the Draft Report in relation to the ERA's description of existing work processes. The CPSU/CSA also questions the ERA's understanding of prisoner programs, and noted that that the Department has had both a Clinical Governance Unit and a Clinical Programs Research and Evaluation Unit for some years. These units have worked collaboratively to improve the content of programs.

In relation to the Department's current work processes, the CPSU/CSA states that:

- Sentence and program length are considered in allocating prisoners to programs, and that it is inaccurate to suggest otherwise. A prisoner is never scheduled to a program that takes place after their release date. If a prisoner cannot be booked into a program, the course is recorded as unavailable and the prisoner is placed in a pool for possible allocation if a program becomes available. Program schedules are now only developed two years in advance instead of five.
- Allocation of prisoners is based on the initial assessment of the prisoner's risk, needs and responsivity. The Department is working on a project to improve assessment for treatment programs. The CPSU/CSA considers that the example used by the ERA of non-violent prisoners being incorrectly allocated to programs is inaccurate.
- The backlog in conducting initial Individual Management Plans was created by the Department being unable to fill Assessment Officer positions because of public sector freezes in recruitment. The backlog in conducting initial Individual Management Plans has been reduced and assessments are able to be completed

as originally designed. There has never been an ongoing backlog of initial IMPs or IMP reviews.

The CPSU/CSA did not note the source of this information.

The CPSU/CSA also makes the following points:

- The Offender Programs area should provide prisoners on remand with support programs.
- The Department sources and funds life skills programs when funding is available.
- The Educational and Vocational Training Unit assesses literacy and numeracy needs of prisoners and substantial resources are committed to provide appropriate interventions for prisoners.

ERA response

The ERA concurs that prison programs should be evidence-based, focused on prisoner needs, and subject to ongoing evaluation. The ERA is also aware that the court-mandated programs take priority over other activities, and that this requirement will not necessarily deliver optimal outcomes for every prisoner.

The ERA agrees with ACEA's point that prisoner needs are complex and interconnected. The ERA does not intend to imply in this report that prisoners tend to have one or two major needs which, when addressed, will prevent a return to prison. However, the ERA does consider that improving the Department's analytical capabilities will allow for a more targeted approach to rehabilitation, maximising benefits by delivering the right services to the right prisoners at the right time.

In relation to the ERA's understanding of work processes, the statements made by the ERA in the Draft Report were based on information provided by current Departmental staff directly responsible for program design and delivery.

After reviewing the CPSU/CSA's submission, the ERA requested the Department review and reconfirm the facts provided to the ERA prior to the release of the Draft Report. Department staff have informed the ERA that the statements made in the Draft Report correctly reflect the Department's current operations.

Consequently, the information provided in this chapter is consistent with the Department's own description of its current processes and practices. Similarly, the ERA's comments on the type, objectives, and timing of programs delivered to prisoners directly reflect shortcomings described to the ERA by Department staff.

7.3.1.2 *Aboriginal specific programs*

Several submitters noted the need for programs and services to be better targeted towards Aboriginal people, including ALSWA, WAAMH, WAPOU, and Professor Podmore.

ALSWA states that that improvements within the prison system could reduce recidivism rates among Aboriginal people by ensuring that programs, services, and policies are culturally appropriate. ALSWA cites findings by the Office of the Inspector of Custodial Services that the five facilities with the highest proportion of unmet treatment needs resulting from program unavailability were all regional prisons with a high Aboriginal population. The Office of the Inspector of Custodial Services' findings recommended increasing programs in West Kimberley, Greenough, Eastern Goldfields, and Roebourne.

ALSWA supports recommendations 18 through 23 of the Draft Report, which relate to managing and using operational information to drive better rehabilitation outcomes. In

addition, ALSWA urges the ERA to make specific recommendations about the provision of programs and services for Aboriginal prisoners, including that:

- the prison system ensure that there are culturally appropriate programs, services and policies for Aboriginal prisoners;
- resources be provided for the provision of Aboriginal language interpreters; and
- tendering and commissioning procedures for prison programs and services enable Aboriginal-controlled organisations to compete effectively with larger non-governmental organisations.

WAAMH also proposes that the ERA make a specific recommendation in regard to the provision of programs, services, and interpreters for Aboriginal prisoners, and that the ERA include a specific recommendation in its Final Report on improving the access of Aboriginal people to culturally appropriate mental health services in prisons.

WAPOU note that it is important to consider how best to respond to the crises in Aboriginal over-representation and recidivism rates when designing training programs.

Professor Podmore notes that offending behaviour programs are rarely culturally specific (particularly in relation to Aboriginal prisoners), and do not appropriately respond to the educational or language levels of the prison population. He emphasises that it is essential that interventions are integrated and continuous across the prison system and into the community.

ERA response

The ERA agrees with the submissions discussing the importance of providing culturally appropriate programs and services to improve rehabilitation outcomes. Consequently, the ERA has included further comments in this chapter to emphasise that cultural appropriateness is a key consideration when identifying and responding effectively to prisoner needs.

The ERA does not have specific expertise in the design of culturally appropriate programs and services. However, it does consider that the Department needs to apply a strong evidence base in program design and delivery, as well as robust monitoring and evaluation processes, to ensure that programs and services provide meaningful and positive outcomes for Aboriginal people. This is particularly important in identifying and understanding the specific needs of a group of prisoners with a cultural background that differs substantially from other cohorts in the prison system.

The ERA also discusses the delivery of culturally appropriate programs in Chapter 8, in relation to the involvement of Aboriginal-led not-for-profit organisations in the tendering process.

7.3.1.3 Provision of health and mental health services in prisons

WAAMH states that more detailed work and consultation is required to develop effective mental health care in the justice system. WAAMH further notes that significant work in this area is currently underway including the Western Australian Mental Health, Alcohol and Other Drug Services Plan 2015- 25 (**MHAOD Services Plan**) and the establishment of a forensic sub network of the Mental Health Network, which intends to include an in-prison mental health care model as a key focus. WAAMH recommends that the ERA consider the MHAOD Service Plan strategies for endorsement.

WAAMH also proposes that the ERA recommend:

- the further development of standards for mental health services in mainstream prison units where such specialist care will not be available;

- that Government develop a state-wide model of mental health care in prisons; and
- a review of the governance arrangements for providing forensic and prison mental health to provide greater clarity about which Department should be responsible for the provision of health care within prisons and the most appropriate organisational arrangements to achieve contemporary standards of access and care.

ERA response

In relation to comments addressing mental health services, the ERA agrees that this is a key issue for the prison system. While the evaluation of mental health care services falls outside the scope of the Terms of Reference for this Inquiry, the ERA welcomes the work currently underway by organisations better placed to develop effective strategies in this area.³¹³

However, the ERA does consider that improvements in the Department's analytical capacity will assist in assessing shortcomings in mental health care services, and in developing effective reforms to address these. As is the case with Aboriginal prisoners, prisoners with mental health problems are overrepresented in the Western Australian prison system. Likewise, this cohort has specific needs that must be identified and addressed, in order to deliver meaningful and positive outcomes.

7.3.2 Planning and evaluating program delivery

The Department is responsible for delivering programs to prisoners, including education and training, and targeted programs such as those delivered to sex offenders and prisoners convicted of violent crimes.

In order to deliver programs effectively, the Department needs to:

- assess the program needs of prisoners on entry, allocate them to programs and then assess how effective those programs have been for individuals; and
- assess, at a system wide level, how effective programs have been at addressing the needs of prisoners collectively.

This is illustrated in Figure 24 overleaf.

The information collected by the Department when a prisoner is admitted and assessed appears to be broadly consistent with that collected in other jurisdictions. However, the ERA observes that this data does not feed into the systems used to allocate prisoners to programs. The Department has informed the ERA that initial and ongoing prisoner assessment is currently not ideal, both in respect to security classifications, and to identifying prisoners' rehabilitation needs.

That said, the Department does appear to have systems that currently collect a broad range of data relating to prisoner risk and needs, as well as some in house staff with the skills to expand this capacity.³¹⁴ The ERA considers that there are a number of opportunities for the Department to use this data to expand its understanding of how its operations influence future outcomes for various prisoner cohorts.

A current failure to fully consider prisoner's rehabilitation needs has also been raised by a wide variety of stakeholders in discussions with the ERA. In particular, stakeholders have

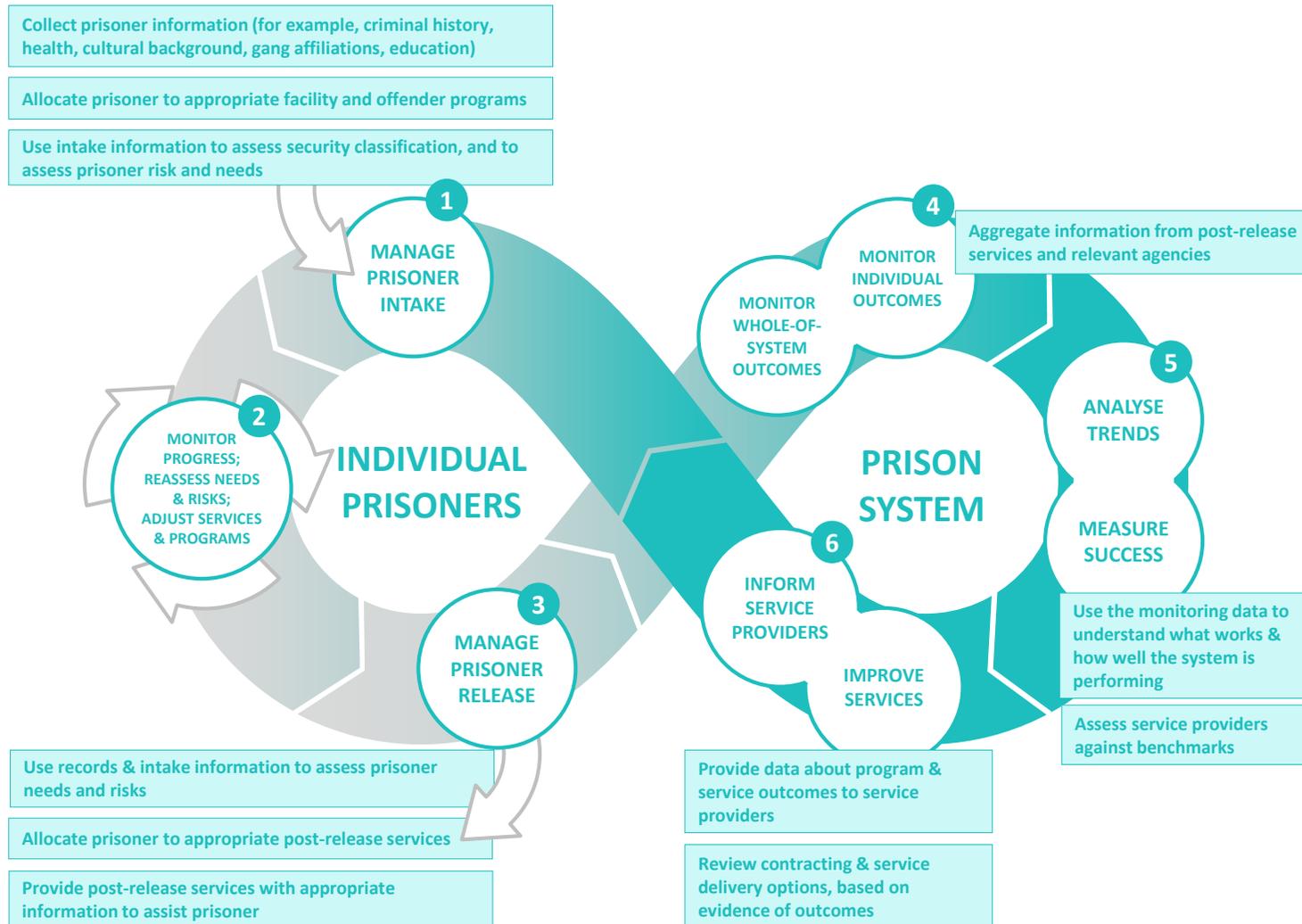
³¹³ In particular the Western Australian Mental Health, Alcohol and Other Drug Services Plan 2015-25, and the establishment of a forensic sub-network of the Mental Health Network, as highlighted by WAAMH.

³¹⁴ For example, it retains programmers among its staff who are able to build upon existing systems for the collection of different types of data.

noted that programs and services for Aboriginal prisoners are generally not culturally specific, and may not accommodate prisoners' language needs. There is a risk that a lack of consideration in these areas can significantly compromise the effectiveness of programs and services, given the high representation of Aboriginal people. Similarly, stakeholders have raised concerns about offenders with mental health conditions in the prison system. The ERA considers that a strong capacity to identify, analyse, and monitor prisoner needs can help the Department design and deliver better services and programs for these prisoners.

In the following sections, the ERA discusses opportunities to improve assessment and allocation of individual prisoners to programs and opportunities to improve system wide assessment of programs.

Figure 24 The feedback loop: collecting and using information to make better decisions in the prison system



7.3.2.1 *Improving prisoner intake and program allocation processes*

The Department's processes for the intake of new prisoners and the management of those prisoners during their time in custody are described in Box 7.

Box 7 - How prisoner intake and program allocation works³¹⁵

When an offender is convicted by the court, they may be held on remand in one of the State's prisons until they are sentenced. It is not unusual for prisoners to remain on remand for several months, since the average remand time in Australia for unsentenced prisoners is currently around five months.³¹⁶

Within five days of admission to prison, prisoners undergo a risk assessment to identify any immediate mental or physical health needs. Prisoners will also receive a security rating during this time.

In the meantime, the Department may provide a pre-sentence report to the judge upon request. The judge considers this report when sentencing the prisoner and deciding what programs should be mandatory for the prisoner to complete.

Once the prisoner is sentenced, if they will be in prison for six months or more, the Department will work with them to establish an Individual Management Plan (IMP) within 28 days.³¹⁷ Prisoners with a sentence of less than six months do not receive an IMP.

From the Department's perspective, the IMP is an agreement between the prisoner and the prison, wherein the prisoner agrees to the requirements and expected behaviours that will result in privileges, a decrease in security classification, and potentially early release.³¹⁸

In developing the IMP, the Department will consider factors such as the prisoner's risk of harm to self or others, educational history, and any substance abuse issues. This will result in a profile of the individual's risks and rehabilitation needs.

The prisoner will also be allocated to the programs they are required to complete. The allocation is generally based on the next available opening in the program.

Throughout their time at the prison, the prisoner will have periodic reviews of their IMP.³¹⁹

The ERA observes that the Department does not use the information it has about a prisoner's sentence length and extent of their rehabilitation needs to properly plan how and when the prisoner will attend programs.

The Department has indicated to the ERA that this results in a substantial percentage of prisoners being released back into the community without having completed programs intended to reduce their risk of reoffending. As a result, the Department bears the considerable expense of keeping a prisoner in custody, but releases them as likely (or even

³¹⁵ Per the Department of Corrective Services, *Sentence Management Manual for Use in the Assessment and Sentence Management of Prisoners*, Perth, Government of Western Australia, 2013, and information provided by the Department of Corrective Services.

³¹⁶ Australian Bureau of Statistics, *4517.0 - Prisoners in Australia, 2014*, Canberra, Government of Australia, 2014.

³¹⁷ The ERA has been informed that, in practice, there is a considerable backlog in some prisons.

³¹⁸ Note that the Individual Management Plan process is also subject to a range of other issues, relating to the prisoner's capacity to understand what they have committed to, and the cultural appropriateness of the process. The ERA has been informed by the Department of Corrective Services that this area requires improvement.

³¹⁹ The ERA has been informed by the Department of Corrective Service that these reviews are currently somewhat cursory, and do not tend to lead to significant modifications of Individual Management Plans.

more likely) to commit more crimes. This further adds to the costs borne by taxpayers, as future crimes result in additional demand for policing, court services, and prison services.

The ERA considers that the Department's current processes and programs have two key shortcomings.

Firstly, the Department does not currently have a good process for prioritising the way in which prisoners are allocated to programs. Rather, prisoners who are required to complete a program tend to be allocated to the first available slot, using a tool that is little more than a spreadsheet showing program slots over time. This 'first-come first-served' approach does not consider the individual's sentence length, the average sentence length in prisons, or the Department's rules around access to programs.

This leads to suboptimal outcomes. For example, a prisoner may wait for three months on remand before receiving a sentence of eight months. Because sentences are backdated, the three months spent on remand will count towards completion of the prisoner's sentence. This means that the prisoner will only have five months left to serve. However, the Department requires a prisoner to have six months left to serve to establish an Individual Management Plan and so to receive rehabilitation programs. As a result, this prisoner will not undergo rehabilitation programs, but will simply wait out their time in custody and be released directly into the community. This is not an unusual outcome given that prisons have a high turnover, with around half of prisoners staying for under a year.³²⁰

Further, when a prisoner does receive an assessment but upcoming programs in the near future are full, the prisoner may be allocated to a program that takes place after their release date regardless of the fact that they are no longer able to attend.

To address these problems, the Department can review and improve the way in which it allocates prisoners to programs. It should give consideration to optimising the number of prisoners who receive programs, and prioritising delivery to prisoners who are most in need. Further, it should assess the suitability of any internal rules, policies, and systems that underpin the program allocation process.

Secondly, there is an opportunity to make better use of information that the Department has about the needs of individual prisoners to deliver practical and well-timed interventions. Department staff have informed the ERA that existing programs focus quite narrowly on the attitudes and beliefs that have led to the prisoner committing a crime, and on improving the prisoner's self-control and life choices.³²¹ These programs are generally not designed for, or provided to, prisoners who have not yet been sentenced, as those prisoners are considered legally innocent.

However, the Department collects information to determine whether a prisoner may have personal issues with managing, say, personal finances, family relationships, or basic life skills. The ERA considers that there is an opportunity to deliver short life skills, literacy, and numeracy courses to both general population prisoners, and remand prisoners who are likely to be held in custody for more than a few weeks.^{322,323} The current practice of holding

³²⁰ Based on information provided by the Department of Corrective Services.

³²¹ This is further complicated by the fact that court-mandated programs generally take precedence over other programs developed by the Department, regardless of their expected effectiveness.

³²² Courses could include things like addressing lack of housing, dealing with debt, how to access help in dealing with a difficult relationship, or finding suitable parenting support and community services.

³²³ For example, the Pathfinders program in the United Kingdom. Lewis, S, J Vennard, M Maguire, P Raynor, M Vanstone, S Raybould, et al., 'The resettlement of short-term prisoners: an evaluation of seven Pathfinders', *RDS Occasional Paper No.3*, London, United Kingdom Home Office, 2003, p.67.

prisoners on remand for three months (as is often the case) without providing support programs is a wasted opportunity for early intervention.^{324,325}

7.3.2.2 Improving the ongoing assessment processes

Prisoners respond differently to programs, and good case management and monitoring is the best way to assess whether their needs are being met, or whether an adjustment is needed. The ongoing assessment process needs to be efficient to ensure opportunities are not missed for timely intervention for individual prisoners.

The ERA considers that the Department's ongoing monitoring of prisoner risks and needs would benefit from better systems that identify prisoner needs as they arise. The Department's Total Offender Management System is able to collect extremely detailed, near real time data about how well each prisoner is tracking across a number of areas. The Department can use data from the Total Offender Management System to understand changes in prisoners' choices and behaviours on a very detailed level. This improved understanding will enhance the Department's capacity to design and deliver programs, providing detailed information about which interventions deliver the best outcomes for various cohorts, and highlighting where programs and services are currently failing to deliver good outcomes for specific types of prisoner. This may be particularly valuable in identifying any current weaknesses in the delivery of programs and services to populations that are currently overrepresented in the prison system (such as Aboriginal people, and prisoners with mental health conditions), and testing the outcomes of improvements in these programs and services.³²⁶

Additionally, the system has recently been expanded to link with community corrections, police and court systems. Prison officers can also use this information in understanding and adjusting their assessment of prisoner needs based on a more detailed understanding of an offender's case history.³²⁷

³²⁴ International reviews of short-term prison programs have found significant benefits from these interventions, leading to both lower reconviction rates, and a positive change in attitude to crime. Similarly, other studies have emphasised the importance of personal development strategies for short-term prisoners, and the provision of basic life-skills, literacy, and numeracy training. (Scottish Government, *Learning in Custody: Report of the Offender Learning in Custody Workstream*, Edinburgh, 2009; The Office for Standards in Education, Children's Services and Skills (Ofsted), *Learning and skills for offenders serving short custodial sentences*, London, United Kingdom Government, 2009, p.4.)

³²⁵ This is not to imply that prisoners tend to have one or two major needs which, when addressed, will prevent a return to prison. The ERA recognises that prisoner needs are complex and interconnected. However, prisons do need to prioritise delivery of programs and services where these can deliver an immediate benefit, and assist prisoners in establishing a safer and more stable home life upon release. This is also an area that offers considerable scope to assist short-stay, unsentenced prisoners.

³²⁶ This may be particularly useful where the Department has designed programs based on those that have been highly effective internationally, but originate in countries with a minimal Indigenous population, since these programs may need substantial adaptation (or indeed be completely unsuitable) for Aboriginal prisoners.

³²⁷ Until recently, the Department of Corrective Services, Department of the Attorney General, and the Western Australian Police each used a different identifying number or code for individuals in contact with the justice system. This meant that data about individuals could not easily be linked across the three systems. Last year, the three Departments established a mechanism to link this information, using a unique identifier for each offender.

The ERA recommends the Department develop a module for the Total Offender Management System to improve monitoring of prisoner risks and needs to support early intervention.³²⁸

7.3.2.3 *Monitoring and assessing the prison system's overall effectiveness*

An improved understanding of the causes of recidivism and effectiveness of interventions would assist the Department to design a robust, resilient system that can adapt as needed. It would also assist the Department to identify high-performing prisons and effective programs, so that successes can be replicated in other facilities.

The ERA considers that the Department can improve its capacity for analysis – and consequently ongoing performance improvement – by:

- *Prioritising use of analytical findings* – Good analysis is not valuable if it is not used in the decision-making process. For this to happen, decision-makers should have access to relevant information. The ERA recommends that the Department require all major operational and strategic proposals to incorporate relevant analytical findings, including an assessment of how the proposal is likely to affect prisoner outcomes, before a decision is made and approved.
- *Connecting human services and justice sector information* – The Department can improve its understanding of how the prison system is performing by linking to data from other Government service providers (refer to Box 8 on Data Linkage WA). For example, data from family-related services is a good proxy for understanding a former prisoner's progress post-release, because family cohesion has been shown to correlate with a reduced risk of reoffending.³²⁹ Such linkages would require careful management of privacy issues, but have the potential to provide insights into prisoner outcomes that might not otherwise be available.
- *Drawing on external resources* – Collaborating with other organisations can provide the Department with valuable opportunities to perform high quality analysis in a more cost-effective way. The ERA considers that Data Linkage WA and the State's universities offer particularly good opportunities for collaboration, as detailed in Box 8 and Box 9, and considers that the Department should seek to work with these parties.

³²⁸ The ERA notes that, based on information provided by Department staff, the Total Offender Management System software is old, and will eventually need to be replaced by more modern software. Any future software deployed by the Department should also incorporate this capacity, and should be flexible enough for staff to develop add-on modules that respond to the data needs of the Western Australian prison system.

³²⁹ Bayse, DJ, SM Allgood, and PH Van Wyk, 'Family life education: An effective tool for prisoner rehabilitation.' *Family Relations*, 1991, pp. 254–257.

Box 8 – Partnering with Data Linkage WA

Data Linkage WA, a unit operated by the Department of Health in collaboration with the not-for-profit and academic sectors, already has access to data that spans a wide variety of Government services and agencies.

It can offer valuable services to partner agencies including anonymising large datasets, combining cross-agency data into a useful format for analysts, and ensuring data quality. Drawing upon these functions would save the Department a great deal of work, and allow its analysts to negotiate access to data they would not otherwise be able to access.

Data Linkage WA also has considerable experience in working with justice related organisations such as the Department of the Attorney General and the Department of Child Protection, and is currently establishing a working relationship with the Western Australian Police.

The ERA has consulted with Department of Health staff responsible for the unit, who have advised that they are confident that they can enhance the Department's capacity for high quality analysis. They have also noted that they have had preliminary contact with the Department in the past, but that work has not been pursued to date.

The project team have also noted that the Department is likely to gain a more immediate benefit by collaborating to produce preliminary datasets that provide a 'snapshot' of the system (and related systems) at a point in time, rather than seeking to develop a more complex, real time project. Beginning with a somewhat less ambitious project will provide both the Department and project staff with a clearer understanding of the kind of larger projects that would be genuinely useful.

Box 9 - Engaging with Universities

No agency has unlimited capacity to engage in detailed academic research, and few are well placed to undertake large research projects that will take many years to complete.

However, the Department has a wealth of data that has a high potential for use in academic research, and could be used to develop much deeper insights into specific issues, which would enable performance improvements.

The ERA considers that the Department would benefit from establishing a more comprehensive, formal framework for establishing research partnerships, and from actively seeking opportunities to collaborate.

The Department has advised the ERA that it is currently reviewing its research engagement model, and has drafted a new research application and approval process that is currently awaiting approval, but this is not currently a priority for the Department.

The ERA strongly encourages the Department to pursue this further when it has the capacity to do so, as it offers an excellent opportunity for the Department to tap into high quality academic research and analysis.

7.3.2.4 Recommendations

The ERA recommends that:

- 24) The Department of Corrective Services review the way it currently allocates prisoners to programs (including requirements such as a 6 month minimum stay to receive assessment), and improve this process to optimise the number of prisoners receiving programs.
- 25) The Department of Corrective Services review the type and timing of programs currently delivered to ensure they adequately address prisoners' practical needs for education and life skills, and capitalise on opportunities to deliver short-course programs to prisoners on remand.
- 26) The Department of Corrective Services develop a module for the Total Offender Management System to improve monitoring of prisoner risks and needs to support early intervention.
- 27) The Department of Corrective Services require all major operational and strategic proposals to incorporate relevant analytical findings, including an assessment of how the proposal is likely to affect prisoner outcomes, before a decision is made and approved.
- 28) The Department of Corrective Services partner with the Department of Health's cross-sector Data Linkage WA project to obtain information about prisoner outcomes beyond the prison system.
- 29) The Department of Corrective Services establish a research partnership framework to actively seek out and engage in projects with universities, to gain a deeper understanding of specific issues within the prison system.

7.3.3 Administrative information and financial management

Administrative information is core information about the Department's resources, including the money, people, infrastructure and equipment the Department uses to run its operations. It covers many important factors, such as how much money the Department has, what it owes and to whom, how many people it employs and what they do, and how much leave they have accrued.³³⁰ Understanding and using these resources appropriately is fundamental to the efficient management of prisons. Hence, this information needs to be of good quality to support sound decision-making, and so to support good performance in the future.

Such administrative data is also a component of many of the performance measures and management information measures recommended by the ERA for performance benchmarking in Chapter 6. Performance measures need to be based on accurate and complete underlying information and historical data, to ensure that they are relevant and appropriate.

However, the information the ERA has received – be it from the Department, the Office of the Auditor General, or external views such as the Mahoney Inquiry – suggests that the

³³⁰ Managing this administrative information – in particular, financial information and records - is a well-established field, with specific guidelines, standards, and legislative requirements. For example, there are many accounting rules about how things should be measured and recorded. Similarly, audit guidelines are clear when it comes to how information should be managed and quality-assured, and the *State Records Act 2000* lays out exactly what agencies have to do in terms of record keeping. Annual audits performed by the Office of the Auditor General also provide each department with very specific detail as to what needs to be improved to meet many of these standards.

Department has experienced longstanding challenges in managing its administrative information and processes, particularly in relation to prison expenditure and payroll.³³¹ Many of the problems with the Department's systems and processes date back to decisions made at the time the Department of Justice was split in 2006.³³²

In isolation, these might be regarded as relatively minor administrative problems. However, the ERA considers that they are not isolated issues, but are symptoms of a broader failing of systems and processes within the Department – failings that do have significant consequences for the Department's ongoing performance.

Consultation with the Department indicates that staff, and in particular staff from the Office of Reform, are well aware of these problems and are working on addressing them. However, due to the scale and extent of the problems, the ERA has elected to comment on them in this report, and to provide some recommendations to support and expand upon the Department's current reform plan.³³³

To understand the nature and extent of the Department's problems in this area, the ERA met with Department staff and sought information from external reviewers. In particular, the ERA reviewed correspondence between the Office of the Auditor General³³⁴ and the Department sent over a five-year period, in relation to the Department's annual financial audits and the qualified audit opinions the Department received for the 2013-14 and 2014-15 financial years.³³⁵

Based on this review, the ERA considers that there is room for the Department to improve in three key areas: strengthening internal controls to ensure the accuracy of data; responding promptly when problems are identified; and improving record keeping practices.

³³¹ While independent overseers such as the Auditor General and the Inspector of Custodial Services can and do highlight such risks, there is room for improvement in the speed with which the Department responds to problems when they are raised.

³³² When the Department of Justice was split, the new Department of the Attorney General retained control of the administrative and financial systems used to manage the Department of Corrective Services. This resulted in a situation where the Department had little control over its human resources and finance system, as explained further in Section A4.3 of Appendix 4. This arrangement is unsuitable and hinders the ability of the Department to manage its financial position. The Department is now in the process of reforms to decommission the old shared systems and take independent control of its own administrative processes.

³³³ The ERA emphasises that it is more efficient to address these problems now, rather than revisiting any outstanding issues after the current reform program is completed. Given the broad, systemic nature of the Department's problems in this area, a piecemeal approach is unlikely to deliver satisfactory results. Hence, it is important that the Department's present reform journey is a flexible one, and is capable of incorporating new findings as it progresses.

³³⁴ The Auditor General is the major independent reviewer of State Government agencies' financial statements, performance, and information systems, and is responsible for providing its findings to Parliament.

³³⁵ Correspondence between the Office of the Auditor General and the Department of Corrective Services, 'Findings identified during the interim audit', and 'Findings identified during the final audit' for the periods of audit ending 30 June 2009, 2010, 2011, 2012, 2013, and 2014. A qualified audit opinion is a serious matter that indicates problems in the accuracy or verifiability of an organisation's accounting information – core information the organisation requires to measure its efficiency and performance.

Box 10 - How audit findings relate to efficiency and performance

Audit findings address the ways in which an organisation's financial information is managed and verified. They provide an assessment of whether this information can be relied upon to give a true and accurate understanding of the organisation's situation. The organisation can then have confidence in the financial data it uses to report to Parliament, and to benchmark its performance.

Auditors assess the seriousness of audit findings by considering the likelihood and significance of the outcomes, if each problem is not resolved. Hence, audit findings are generally assessed in terms of the likely impacts of any problems on an agency's future efficiency and performance.

Likely impacts are considered in terms of "*both quantitative impact (for example financial loss) and qualitative impact (for example inefficiency, non-compliance, poor service to the public or loss of public confidence).*"³³⁶

7.3.3.1 Strengthening internal controls to ensure the accuracy of data

One of the major, recurring concerns raised in annual financial audits of the Department has been the issue of internal controls – that is, the processes and safeguards an organisation puts in place to insure the integrity of its accounting and financial information.³³⁷ (More detail on this issue is provided in Section A4.4 of Appendix 4.) Strong controls will improve the reliability of the Department's data, and allow the Department to implement and consistently monitor benchmarks recommended in this Final Report.

The Department's strategic plan includes a review of internal controls to take place during the 2015-18 period, which is certainly a step towards addressing the current problems. The Department has advised that this review will be undertaken by a new, internal Performance Assurance Branch that has been appointed to 'undertake and coordinate targeted reviews of systems, controls and procedures'.³³⁸

The ERA considers that this should be done as soon as is feasible, given that the Department is already focusing on resolving issues in this area. Any findings from this review should feed directly into the reform plan, modifying or adding to it as required.

7.3.3.2 Responding promptly when problems are identified

One of the key practical functions of the audit process is to highlight risks before they lead to major performance issues. For instance, the ERA has observed that the same findings tend to be raised by the Office of the Auditor General about the Department year upon year without being adequately resolved, resulting in ongoing costs to the Department's efficiency and performance. For example, the Department has been notified of problems with the integrity of its payroll records, but has not always managed to resolve these problems in a

³³⁶ Office of the Auditor General, *Audit Results Report – Annual 2013-14 Financial Audits*, 2015, <https://audit.wa.gov.au/reports-and-publications/reports/audit-results-report-annual-2013-14-financial-audits/management-issues/> (accessed 30 June 2015).

³³⁷ In fact, 'weaknesses in internal controls' was the specific reason the Department received a qualified audit opinion in the 2013-14 financial year. In 2014-15, the Department also received a qualified opinion in the Auditor General's report on controls (in addition to the qualified opinion on its financial statements), which cited problems with controls over the Department's asset register and procurement processes. (Department of Corrective Services, *Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p.61.)

³³⁸ Communication with the Department of Corrective Services, 15 May 2015.

timely manner.³³⁹ (A more detailed explanation of these issues has been provided in Section A4.4 of Appendix 4.)³⁴⁰

It is important for the Department to prioritise resolving such problems when they are raised, ensuring that the data collected by the Department provides a robust and accurate understanding of the Department's current position. As with internal controls, this is necessary to support the integrity of the benchmarking process. A prompt response will also provide the Government and taxpayers with assurance that risks to the Department's future performance are consistently and appropriately managed and protecting the Department from losing access to significant amounts of public money it could otherwise be using to operate and improve the prison system.³⁴¹

The current reform process provides the Department with a good opportunity to review such outstanding issues, identify what actions are being taken to resolve them, and commit to a date by which the problems will be resolved. This may not be a particularly onerous process, as many of the necessary actions and deadlines will have already been set out in the Department's strategic reform plans.

The ERA considers that the Department should publish the list of actions (and their associated deadlines) to be taken to comply with outstanding recommendations made by the Auditor General, the Inspector of Custodial Services, and any other relevant Government bodies, and to provide progress updates in its Annual Report.

7.3.3.3 Improving record keeping practices

The ERA has observed that there is an opportunity to substantially improve the Department's record keeping practices. Improvements in this area will assist the Department in collating the information needed to implement the benchmarking process.

The ERA has also found it difficult to obtain the data and documents to necessary to conduct the Inquiry. In particular, operating information could not easily be extracted from the Department's computer systems, and a number of key documents could not be located in a timely manner. This issue is discussed further in a letter from the Commissioner for the Department of Corrective Services in Appendix 7. Department staff have also stated that they have trouble finding documents they need. The Department's record keeping practices do not appear to reflect the requirements specified under the *State Records Principles and Standards 2002*.³⁴²

³³⁹ The ERA's concern around the Department's difficulty in addressing audit findings is compounded by the fact that the Department had significant problems simply finding the letters from the Office of the Auditor General that detailed the problems found in each audit. This suggests a level of disorganisation around both record keeping in general (as discussed further below), but also around tracking and addressing the significant issues raised in these annual communications.

³⁴⁰ The Office of the Inspector of Custodial Services also maintains a register of recommendations made to the Department, and tracks whether these recommendations have been implemented. As the primary agency tasked with oversight of the operation of the State's prison system, the Office of the Inspector of Custodial Services is also in a position to highlight issues that will hinder the Department in achieving its benchmarks and objectives. Hence, it is important for the Department to respond in a timely manner when issues are raised by the Inspector of Custodial Services.

³⁴¹ For example, the Department is still attempting to recover a substantial amount in salary overpayments that occurred as a result of administrative process issues over several years, as detailed in Section A4.4 of Appendix 4.

³⁴² *State Records Principles and Standards 2002* being the subsidiary legislation to the *State Records Act 2000*. The ERA has similar concerns regarding the Department's implementation of *Treasurer's Instruction 804*, and the State Records Commission standards.

The Department recognises this problem. It has established a record keeping plan that covers reforms until 2018, and has advised the ERA that it develops ‘policies, process, systems and tools’ to enable staff to meet their record keeping obligations.³⁴³

Currently, it is difficult for the Department to locate significant records relating to its past decade of operations, and the ERA considers that the issue of cataloguing and organising historical information warrants specific consideration. Improvements in the management of these records will make it easier for the Department to undertake the work needed to finalise benchmarks, and to track future results against historical performance.

Hence, the ERA considers that the Department should seek expert advice from the Office of State Records as to how to manage and organise this backlog, and commit to a specific set of actions to improve its management of, and access to, its own historical records.

Box 11 - How record keeping influences performance and good decision-making

Poor record keeping poses a risk to the Department’s future performance, as it inhibits the Department’s ability to understand its historical performance, and so to draw meaningful conclusions as to how effective its past decisions have been. Without this context, it is difficult to assess which decisions have had a positive effect on the Department’s performance, and which have been detrimental and should not be repeated.

7.3.3.4 Recommendations

The ERA recommends that:

- 30) The Department of Corrective Services prioritise the review of internal controls raised in its strategic plan.
- 31) The Department of Corrective Services publish its planned actions and timeline for resolving outstanding issues raised by the Auditor General, the Inspector of Custodial Services, and any other relevant Government bodies, incorporate these into its current reform process, and report on its progress against this plan in its annual report.
- 32) The Department of Corrective Services consult with the Office of State Records in developing a plan to improve the management of the Department’s existing records.

³⁴³ Communication with the Department of Corrective Services, 15 May 2015.

7.4 Information sharing and transparency

Making sure the right people have access to the right information is fundamental to running an efficient and effective organisation. There are many people and organisations involved in the prison system. They need relevant and timely information to deliver services and track how well they are performing.

Further, Government agencies are ultimately answerable to the public, and as such, the Department should publish data that allows all stakeholders to make a robust, independent assessment of the Department's performance.

The ERA observes that the Department does not share information well. In particular, the Department does not:

- provide sufficient access to case management information to post-release service providers to allow them to most effectively assist former prisoners;
- provide meaningful performance feedback to post-release service providers to allow them to improve their services; and
- meet best practice in publishing information about its operations to ensure accountability and transparency.

Each of these matters is described in more detail below.

7.4.1 *Summary of submissions on the Draft Report and ERA response*

ALSWA, WAAMH and ACEA express support for the recommendations in the Draft Report aimed at improving data collection and sharing of data by the Department of Corrective Services.

Specifically, ALSWA considers it vital that the data and evaluations of prisoner programs and services are robust and publically available. In 2014, the Office of the Inspector of Custodial Services reported that only eight of 21 treatment programs provided by the Department of Corrective Services had been evaluated by the Clinical Governance Unit, and only one had been subject to long-term evaluation. None of these evaluations have been made publicly available.

WAAMH submits that mandated provision of quality data by the Department of Corrective Services would improve transparency and public accountability. WAAMH proposes that the ERA recommend that the Department of Corrective Services provides data that meets the Government's draft 'Whole of Government Open Data Policy'.

WAAMH suggests that the ERA's Final Report clearly state that the ERA's recommendations aimed at improving transparency in the delivery of public prisons should still apply if the Government decides not to implement Service Level Agreements and commissioning.

7.4.1.1 *ERA response*

The ERA concurs that there is significant scope for improvement in the way the Department publishes data, and that further work in this area will serve to improve transparency and accountability. The ERA also agrees that enhancing accountability and transparency is equally applicable to private prisons, and is also essential in ensuring the Department's procurement and management processes deliver effective and appropriate prison services where these are provided by a private operator.

The ERA also notes that the Whole of Government Data Policy noted by WAAMH has now been finalised and formally adopted by the State Government. Consequently, the ERA has included a recommendation that the Department seek to implement the policy.

7.4.2 Access to case management information

The Department and post-release service providers (for example, Outcare) have told the ERA that third-party service providers do not have access to the case management information they need to undertake their jobs effectively.

The Department's case management systems effectively 'stop at the door' (that is, the point at which an offender exits prison), leaving offenders reliant on service providers who have insufficient information on their past history, risk factors, rehabilitation needs, or even the rehabilitation programs they have completed while in prison.³⁴⁴

The system relies on prisoners recalling and disclosing relevant information in order to receive meaningful help. The ERA considers this disadvantages people who – due to their health issues or history – are unable to provide this level of detail to caseworkers. This is a poor outcome, given the high risk of these former prisoners reoffending.

The Department has informed the ERA that there is no technical reason why the Total Offender Management System (discussed in Section 7.3.2) could not be used to share an appropriate level of case management information with post-release service providers. Enabling this would require the Department to build a module to provide post-release caseworkers with an agreed level of case management information, with information sharing subject to prisoner consent.

Such a module may also be useful in addressing a broad lack of consistency in the way post-release service providers provide information to the Department.³⁴⁵

7.4.3 Performance feedback for post-release service providers

The Department and post-release service providers have told the ERA that the Department does not provide meaningful performance feedback to post-release service providers to allow them to improve their services.

The ERA considers that this is a significant problem, given that good post-release care has been shown to decrease the likelihood of an offender returning to prison. For example, in Victoria, the recidivism rate of prisoners released from a transitional facility was around four times lower than the rate for all prisoners.³⁴⁶ The United Kingdom provides a particularly good model for solving this problem, and helping service providers understand the efficacy of their programs.

³⁴⁴ For example, prisons do not formally share any data or history on individual prisoners with Outcare. Outcare relies on disclosure from individual prisoners to understand their background and rehabilitation activities during their time in prison.

³⁴⁵ The Department has advised that post-release information is collected in different ways, and to different standards by various service providers, and is not well used or generally incorporated into the Department's own decision-making.

³⁴⁶ Victoria Ombudsman, *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, 2015, p. 102.

Box 12 - Case study: The United Kingdom's Justice Data Lab

The United Kingdom's Ministry of Justice launched the Justice Data Lab project in early 2013, with the goal of providing voluntary and community sector agencies with access to 'high quality data tailored to their needs'.³⁴⁷

In any given period, post-release service providers forward the details of the offenders they have assisted during a period, along with information on the specific program or intervention they have provided. The Justice Data Lab then matches the details with the Ministry of Justice's records and returns information about the reoffending rate for cohorts of offenders who have received the service, against that of a similar group of offenders who have not.

The project aims to help these service providers understand the impact of their work and design more effective interventions, by providing ongoing access to information about outcomes. It also allows the United Kingdom's system to develop a better understanding of what makes a difference outside the walls – an invaluable resource for planning how best to transition prisoners to the community.

The ERA recommends that the Department establish a mechanism for providing feedback to post-release service providers.

This will help the Department and service providers to work more closely, and enable them to collaboratively design solutions to reduce reoffending that are consistently delivered through prisons and community providers.

7.4.4 Publishing data to improve transparency and accountability

Throughout this Inquiry, the ERA has highlighted opportunities to enhance the transparency and accountability in the Department. This issue is discussed in Chapter 4, and some recommendations have been made in relation to specific issues raised earlier in this chapter.³⁴⁸

The ERA considers that the publication of agency data is one of the simplest, most cost-effective ways to raise the level of transparency and accountability in any public sector organisation.³⁴⁹ Additionally, publishing public sector data can contribute to economic benefits by supporting community innovation and new service delivery models.³⁵⁰

Further, the ERA considers that this practice should also apply to all third-party service providers contracted by the Department. This will allow stakeholders to better compare the performance of all prisons, including private prisons, and assess whether the Department's procurement decisions have delivered good outcomes.

The ERA has undertaken a benchmarking exercise to assess how well the Department performs when it comes to releasing information, compared to other Australian and

³⁴⁷ UK Ministry of Justice, 'Justice Data Lab Launched', 2013, <https://www.gov.uk/government/news/justice-data-lab-launched> (accessed 28 May 2015).

³⁴⁸ Chapter 3 has also been expanded in this Final Report, and discusses the current lack of transparency around the data used to calculate the Department's reported cost per prisoner per day figures.

³⁴⁹ It is important to be clear that these recommendations are in relation to aggregated data about the Department's financial and operating performance – that is, system wide data about what the Department is doing and how well it is doing it. They do not refer to data about individuals within the prison system, and should never be identifiable down to an individual level.

³⁵⁰ The economic case has been increasingly well quantified in recent years, with Nicholas Gruen's recent study placing the potential value of the economic value of open data in Australia in the billions of dollars – a total of \$30 billion across a range of sectors. (Gruen, N, *Open for Business: How Open Data Can Help Achieve the G20 Growth Target*, Melbourne, Lateral Economics, 2014.)

international jurisdictions. The benchmarking was based on five broad principles – that agency data should be:

1. Regularly updated: for example, quarterly publications provide more timely data, and better illustrate trends, than annual publications.
2. Sufficiently detailed: for example, many kinds of data are more informative and useful if provided for each prison, rather than as a total for the entire system.
3. Comparable to prior periods: for example, ensuring that the same measures are available for a number of prior periods allows users to better understand changes and trends. This also requires data definitions, and collection and calculation methods to be consistent over time. Where there is a change in methodology or definition, results using the legacy method should also be released to ensure the comparability of time series measures.
4. Covering a range of metrics: for example, prison population numbers may be of interest to a limited set of users, but providing additional data (for instance, the number of prisoners in various types of employment, or prisoners commencing and completing programs) allows for a much better understanding of the prison population.
5. Published in a useful format: for example, providing data tables in an Excel or CSV file is far more useful than providing it in a PDF document, or table on a website.

The ERA applied these principles to four major subject areas, being: prisoner population statistics; performance and recidivism statistics; workforce statistics; and safety and security statistics. Most prison data released falls into one of these four broad areas. The ERA then assessed the data released in Western Australia and in seven other jurisdictions, giving each jurisdiction a score out of five for how well it released data in each subject area.³⁵¹ The results are shown in Table 28.

Table 28 Accessibility and quality of published prison system data (as at May 2015)

	WA	UK	Can	NZ	Vic	SA	Qld	NSW	
Prisoner population statistics	3	5	4	4	3	3	3	4	
Performance & recidivism statistics	2	4	2	2	2	0	1	0	
Workforce statistics	2	5	1	0	3	3	0	0	
Safety & security statistics	1	5	3	3	4	3	1	0	
Key:	5/5	4/5	3/5	2/5	1/5	No results found			

Source: ERA analysis; various government websites.³⁵²

³⁵¹ An assessment by subject area was considered a more informative metric than a single, overall score, since, as seen in the table, jurisdictions are often strong in some areas, and lacking in others.

³⁵² Results derived using Google Web Search, and the websites of the Department of Corrective Services (WA) Ministry of Justice (UK), Justice Data Lab (UK), Department of Corrections (NZ), Statistics New Zealand, Statistics Canada, Department of Community Safety (Qld), Department of Justice and Attorney-General (Qld), Department of Community Safety (former) (Qld), Queensland Treasury and Trade, Government Statistician's Office (Qld), Bureau of Crime Statistics and Research (NSW), Department of Justice (NSW), Department of Justice and Regulation (Vic), Office of Crime Statistics and Research (SA), and Department for Correctional Services (SA). In assessing the 'discoverability' of data, the ERA assumed a hypothetical user with professional research skills but no prior knowledge of the websites consulted.

Most Australian jurisdictions do not tend to be in line with best practice when it comes to releasing data about corrective services. This inadequacy persists, despite Federal and State Government policies that aim to broadly improve the extent to which agencies publish data.³⁵³

Western Australia performs better than its counterparts in some other States. Most importantly, it has recently recommenced the publication of a range of prisoner population statistics on a monthly and quarterly basis – statistics that other agencies tend only to publish in their Annual Reports. However, there is significant room for improvement. The Department's publication of data does not approach that seen in best practice jurisdictions (particularly in the United Kingdom, a clear leader in the field).

The ERA considers that, with the current level of disclosure in Western Australia, it is not possible for interested parties to understand how the Department operates, nor how well it operates. This further hinders the Department in establishing effective service delivery relationships with communities and businesses. The ERA considers that the Department should adopt a policy of publishing its operational and financial data by default, wherever there is no compelling confidentiality reason not to do so.

The Department has advised that its current reform process incorporates plans to improve data sharing, but that it is currently engaged in preliminary work around 'standard definitions and counting rules, data classification, data integrity, data ownership and a review of Department reporting'.³⁵⁴

This review of data quality is welcome and extremely important. However, the ERA notes that it is common for agencies to take the view that any overhaul of data release procedures is a single, large project to be completed.

In contrast, an incremental approach is generally considered more practical, and is consistent with the *Western Australian Whole of Government Open Data Policy*.³⁵⁵ Under this approach, where individual datasets are of sufficiently good quality for release and it takes minimal effort to release them, it is better to publish them immediately as they become available. (In fact, starting to publish the data that is already released in a more accessible format is, in itself, a significant improvement.) The policy and supporting documents provide practical guidance on implementing such an approach, and broadly, on improving disclosure standards.

Such an incremental approach also stands to benefit the Department in the long-term, as it will encourage feedback from data users as to how publication could be improved, and what additional data may be useful.

A best practice data portal should certainly be a goal, but this is a longer-term goal, and should not replace incremental improvement. Further, the Government's current work on developing a whole-of-Government data portal for Western Australia over the coming year may ultimately provide the Department with a less resource-intensive alternative to building and maintaining its own portal.

³⁵³ For instance, the New South Wales, South Australian, Victorian, and Queensland State Governments all have open data policies or strategies in place to facilitate better whole-of-government data release. Similarly the Western Australian Whole of Government Open Data Policy has recently been published, with the Government directing agencies to adopt an open-by-default policy when it comes to data release. (See <https://www.mediastatements.wa.gov.au/Pages/Barnett/2015/07/Open-Data-Policy-delivers-new-WA-opportunities.aspx>, accessed 7 July 2015.)

³⁵⁴ Communication with the Department of Corrective Services, 15 May 2015.

³⁵⁵ *Western Australian Whole of Government Open Data Policy*, Perth, Government of Western Australia, 2015, p. 6.

Finally, when improving the release of its data, the Department should also be guided by the broad principles outlined above, and likewise, seek to improve best practice compliance as the process evolves.

7.4.5 Recommendations

The ERA recommends that:

- 33) The Department of Corrective Services build a Total Offender Management System module to provide post-release service providers with secure access to case management information.
- 34) The Department of Corrective Services establish a mechanism to report to post-release service providers on the efficacy of their post-release services.
- 35) The Department of Corrective Services identify individual datasets that are of acceptable quality and commence publishing these as soon as feasible.
- 36) The Department of Corrective Services adopt a policy of publishing its operational and financial data by default, wherever there is no compelling technical or confidentiality reason not to do so.
- 37) That the Department improve publication and disclosure practices as necessary to meet the standards detailed under Western Australia's *Whole of Government Open Data Policy*.
- 38) The Department of Corrective Services review options for implementing best-practice data publication through publication of data on its own website, and through the use of the forthcoming whole-of-government portal.

8 Introducing greater competition to the prison system

8.1 Introduction

The ERA considers that the overall performance of the prison system can be enhanced through greater competition for the opportunity to manage prisons and deliver prison services. Greater competition will provide the Department with more choice in the number and type of providers that are able to deliver the services that best meet Western Australia's needs.

Greater competition in the delivery of services will encourage better overall performance of the prison system through a wider choice, better quality service offerings, higher levels of innovation, and potentially lower costs.

Some limited competition currently exists for the opportunity to manage prisons and deliver prison services in Western Australia. However, while contracting out the management of individual private prisons has introduced some competition, it does not create competitive pressure in the broader system.

To be clear, by “competition”, the ERA does not mean “privatisation”. The ERA expects that prison management and prison services will continue to be delivered by a mix of public, private, and not-for-profit service providers. It would be a decision for the Department, on a case-by-case basis, to determine which service provider is best able to deliver the services being sought. The ERA emphasises that this selection decision is one that should address the broader objectives of the prison system, and not simply be a matter of engaging the lowest-cost provider.

The ERA has identified several options for extending competition in the Western Australian prison system.

- *Applying greater competitive tension to in-house service delivery* – Under this approach, the Department would have a greater focus on comparing the performance of individual prisons, using Service Level Agreements and benchmarking. These comparisons, combined with the potential of not renewing the fixed term contracts of Superintendents, would increase competitive tension in the public system. However, competition would remain limited under this approach, because it does not introduce a wider range of potential providers to the market.
- *Direct procurement* – This approach involves the Department entering into a contract with a non-public provider to operate a prison or services within a prison. This would generally be achieved through a tender process that ideally involves multiple potential service providers. This is essentially the approach that has been undertaken to date, in establishing Western Australia's two private prisons. However, this option does not require Superintendents of public prisons to adjust their approach to service delivery, since competition is limited only to the prisons or services that are subject to tenders, in which the public sector may not participate.
- *Commissioning* – Under this approach, a Commissioning Division within the Department would determine the outcomes that it wants from a specific prison or prison service, and invite public, private, and not-for-profit providers (or any combination of these groups) to tender for the opportunity to provide these services. Under a commissioning approach, the public sector providers would compile their own tender documents, and compete directly with other providers.

The ERA considers commissioning to be the best approach because it:

- creates the strongest competitive tension by increasing the choice of service providers available to the Department. This is achieved by removing the barriers to competition that prevent public prisons and alternative service providers (private and not-for-profit) from directly competing with each other; and
- requires Superintendents to take a more commercial approach to service delivery, generating system wide improvements.

The ERA is aware that a commissioning approach may create real or perceived conflicts of interest, since the Department would have the role of both a procurer of services and a competitor to deliver these services. The ERA considers that a high degree of probity can be achieved without structural separation of the Department into two entities. However, a ring-fencing arrangement would need to be established between the commissioning and service delivery functions within the Department.

The decisions of the Commissioning Division would need to be overseen by a newly-established independent probity auditor. The probity auditor would participate as an independent observer of tender processes, and would publish a post-tender probity review assessing the fairness of the process. The review could include recommended modifications to processes or Departmental structure to ensure the integrity of future tender processes.

In this chapter, the ERA provides a discussion of:

- the benefits of competition;
- the different means through which greater competition can be introduced in the Western Australian prison system;
- why commissioning is the ERA's recommended approach for extending competition in Western Australia;
- how commissioning can be introduced in Western Australia; and
- issues that need to be addressed in implementing commissioning.

8.2 Summary of submissions on the Draft Report and ERA response

The ERA received submissions from stakeholders on the Draft Report discussing the following topics:

- concerns that commissioning does not address key issues in the prison system;
- lack of evidence of the benefits of commissioning;
- lack of analysis of the cost of introducing commissioning;
- risks and other costs associated with commissioning;
- concerns that commissioning will not increase competition in the prison system;
- the involvement of not-for-profit organisations in a commissioning model;
- commissioning being unnecessary to support innovation; and
- the level of involvement of Aboriginal organisations.

In the following sections, the ERA provides a summary of the submissions from stakeholders on each of these topics and the ERA's response.

8.2.1 Commissioning does not address key issues in the prison system

Andrew *et al*, WAPOU and Dr Toner submit that commissioning will not address the key issues in the prison system, particularly a lack of accountability and under-resourcing of the prison system.

Andrew *et al* submit that the ERA's recommendation to introduce commissioning is not logically continuous with the rest of the Draft Report. Andrew *et al* submit that the earlier chapters of the Draft Report establish a clear need for greater information gathering, well-defined key performance indicators, and increased accountability through Service Level Agreements. However, Andrew *et al* state that it is not clear that commissioning will address any of these issues.

Andrew *et al* submit that commissioning is primarily focused on achieving specified outcomes, whereas benchmarking and Service Level Agreements are designed to focus on process. Andrew *et al* consider that Service Level Agreements and benchmarks improve accountability through their focus on process. They submit that introducing commissioning will switch the focus of providers from process to outcomes and therefore diminish accountability. Andrew *et al* conclude that introducing commissioning is at odds with the increased accountability created from introducing Service Level Agreements and benchmarks.

WAPOU expresses concern that the transfer of public sector services to the private sector prioritises cost savings at the expense of democratic process, legitimacy and individual justice, and results in arrangements that are likely to be less transparent and accountable to the public, and less exposed to competing value regimes.

Dr Toner submits that the ERA has primarily focused on improving the performance of the prison system by improving resource allocation without considering that performance issues arise from insufficient resources. Dr Toner submits that prison inspection reports prepared by the Office of the Inspector of Custodial Services reveal a gross under-investment in prison capacity and facilities, leading to overcrowding, reactive maintenance, and inadequate availability of programs for prisoners. Dr Toner submits that the ERA has argued that these problems can be solved by improved management and states that this view is an untested assertion and it ignores the scale of the resource need.

8.2.1.1 ERA response

The ERA notes the comments by Andrew *et al* that commissioning does not address the issues with governance arrangements in the prison system that have been identified by the ERA. The ERA has documented areas in which the performance of the prison system falls below the standards desired, and outlined how the existing governance arrangements applied to the prison system are one of the factors undermining the performance of the prison system. However, the ERA considers that improved governance and an increase in competition are complementary reforms, and can both contribute to improved performance. Section 8.2.2 below describes how competition can have a positive effect on performance.

With regard to comments from Andrew *et al* on the difference between process-focused and outcome-focused models, the ERA considers that taking an approach with an emphasis only on processes will not sufficiently enhance accountability. Again, the ERA considers these to be complementary reforms, which are intended to improve both accountability and scope for innovation. It is also important to note that focusing on outcomes does not eliminate the need for process monitoring, as processes provide the basis from which outcomes are achieved.

The ERA notes the concern raised by WAPOU that the transfer of responsibility for the provision of services will undermine democratic process, legitimacy, and individual justice, and be less transparent and accountable. The ERA has given consideration to these points, but does not agree with them for the following reasons:

- Democratic process is not undermined by private provision of services. Voters retain the ability to vote against governments that do not provide services in a manner they consider appropriate.
- The private sector can have a legitimate role in the delivery of services, except in quite specific circumstances, as outlined in Section 4.3.5 of the ERA's *Final Report of the Inquiry into Microeconomic Reform*.³⁵⁶
- The private provision of prison services cannot undermine individual justice, because justice decisions continue to be made by the judiciary and parole board.
- The private provision of prisons has in fact contributed to *increased* transparency and accountability of the prison system, as it has resulted in the establishment of the Office of the Inspector of Custodial Services, which now monitors all prisons in Western Australia.

Furthermore, the argument made by WAPOU is one against private provision of prison services rather than against commissioning. Part IIIA of the *Prisons Act 1981* allows for the provision of prison services by private providers in Western Australia. Legislative decisions of this nature are the responsibility of Government and are outside the scope of this Inquiry. It is important to note that commissioning does not preclude full public provision of prisons, should such a policy be adopted in the future.

The ERA notes the comment by Dr Toner that it has not addressed the inadequate level of resources provided to the Department of Corrective Services to manage the prison system. The ERA does not consider the purpose of this Inquiry to be to advocate for more resources on behalf of the Department. The Government is responsible for decisions about the allocation of resources to agencies. The ERA's role is to provide advice and recommendations to ensure that the Department is using the resources that it currently has in an efficient manner. The ERA also considers that the Government will be able to better assess the Department's resourcing needs if it is confident that the Department is using its existing resources efficiently.

8.2.2 Lack of evidence of the benefits of commissioning

The CPSU/CSA, Andrew *et al*, Dr Toner and WAPOU raise concerns with the evidence used by the ERA to support its conclusions about commissioning. These submitters consider that the ERA has provided insufficient evidence to demonstrate that commissioning is effective, or has ignored evidence that demonstrates that it is ineffective.

The CPSU/CSA submits that the ERA's conclusions lack a rigorous assessment of the available empirical evidence in the Draft Report and is therefore premature and lacks objectivity. Related to this, the CPSU/CSA states that the academic consideration of commissioning has been fragmented and suggest that the ERA has not considered the following issues: mislabelling of commissioning; the introduction of quasi-markets; the complexities of commissioning in periods of public sector reform (beyond the identified

³⁵⁶ Economic Regulation Authority, *Inquiry into Microeconomic Reform in Western Australia: Final Report*, Perth, Government of Western Australia, 2014, pp. 159 – 164. This includes situations in which a good or service could be provided at a level consistent with society's interests without Government intervention and situations in which the private sector could provide a good or service at a level consistent with society's interests of the Government applied appropriate regulation.

Department); and the possibility of commissioning undermining established stakeholder relations.

Andrew *et al* question whether there is sufficient evidence that the expected outcomes will occur. Andrew *et al* further state that the United Kingdom Government has not produced any research on the performance of commissioning despite widespread use across public services. Andrew *et al* states that the ERA Draft Report provides no real evidence that commissioning has been successful elsewhere in prison services or other sectors. Andrew *et al* express concern that the ERA was unable to produce any evidence of its efficacy in raising standards, reducing costs or increasing accountability, efficiency and productivity.

Dr Toner submits that the ERA does not explicitly address the issues raised in submissions critical of the recommendation to introduce commissioning. Dr Toner also submits that the ERA has ignored positive inspection reports by the Office of the Inspector of Custodial Services of public prisons (for example, Kimberley Regional Prison) and negative inspection reports of private prisons (for example, Acacia).

Andrew *et al*, Dr Toner and WAPOU all cite the experience with commissioning in the United Kingdom as evidence of potential problems with commissioning.

- Andrew *et al* submit that there have been a number of problems with commissioning in the United Kingdom. These problems include systematic overcharging for electronic tagging of prisoners, allegations of sexual abuse of detainees by prison staff, and the mistreatment of pregnant women. Similarly, Andrew *et al* note a recent report on the privately operated HMP Dovegate high security prison found that it was understaffed and overpopulated, and exhibited high levels of serious violence.
- Andrew *et al* observe that a review of commissioning processes within the United Kingdom National Health Service observed that this model of service provision was poorly implemented, with only 20 per cent of providers adequately using commissioning.
- Dr Toner states the United Kingdom House of Commons Justice Committee 2015 report³⁵⁷ was damning of the performance of the prison system in the United Kingdom. The House of Commons report found that there has been a rapid deterioration in standards, safety and performance in United Kingdom prisons. The House of Commons report found that the confluence of estate modernisation and re-configuration, efficiency savings, staffing shortages and changes in operational policy (including the Incentives and Earned Privileges scheme) contributed to these falling standards.

Dr Toner notes that the ERA observed the 16 per cent fall in costs that resulted from the first round of commissioning undertaken between 2009 and 2011 by the National Offender Management Service in the United Kingdom. Dr Toner submits that further efficiency cuts were introduced in November 2012. Dr Toner states that the ERA failed to record that efficiency cuts were at least partially responsible for the decrease in standards.

- WAPOU expresses concern that commissioning can be used to force public sector workers to accept pay cuts and conditions along with lower staffing levels, as occurred in the United Kingdom. WAPOU submits that this aligns with research that has found that the staffing model used by the private sector is increasingly being emulated by the public sector. WAPOU submits that the introduction of this model accounts for the degradation of safety and services documented in recent reports published in the United Kingdom, specifically, the Harris Review, The House of

³⁵⁷ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015.

Commons Justice Committee report, and the HM Chief Inspector of Prisons for England and Wales Annual Report.

The CPSU/CSA and Dr Toner criticise the ERA for limiting international examples of prison systems to the United Kingdom and New Zealand. Dr Toner notes that there is no mention of the United States, presumably because of the results that contracting out have created, as mentioned in his submission on the Issues Paper. The CPSU/CSA notes that it suggested a number of empirically based strategies being applied in Scandinavian countries in its first submission, which have not been examined by the ERA.

8.2.2.1 ERA response

Commissioning provides an opportunity for the prison system to access the benefits of competition, which are widely acknowledged. In particular, competition drives providers to seek more efficient methods of providing prison services through efficiency and innovation. This is supported by the recent Federal Competition Policy Review, which emphasises the need for greater competition in the human services sector, which has traditionally been shielded from competition, to improve performance.³⁵⁸

The introduction of contestability via commissioning also provides the public prison system with incentives to improve its performance. A study undertaken in the United Kingdom by Crewe and Liebling interviewed over ninety senior managers from both the public and private sectors about the effects of private sector competition. The study found that the majority of those interviewed agreed that competition has driven up standards in the public sector, arguing that the threat of contestability was the only tool that could have done so.³⁵⁹

Dr Toner suggests that the 16 per cent cost reduction across four prisons from the first round of commissioning undertaken by the National Offender Management Service was derived from 'efficiency savings'. The ERA understands that the establishment of a commissioning arm within National Offender Management Service in early 2008, and the associated tendering processes, which began in 2009,³⁶⁰ predate the introduction of efficiency savings. These savings measures took effect in the 2010-11 financial year, when net funding from the Ministry of Justice was cut by more than one per cent for the first time.³⁶¹ Accordingly, the ERA considers that the 16 per cent cost reduction is demonstrative of the benefits of introducing commissioning, rather than the introduction of budget cuts across the United Kingdom's prison system.

Savings of similar proportions would yield material gains to the Department's budget for the prison service, were they achieved in Western Australia. In 2013-14, the cost of operating the prison system amounted to \$615million.³⁶² With such substantial costs, even small improvements can generate considerable gains. For example, a one per cent improvement in cost efficiency across the prison system would represent a benefit of over \$6 million per year.

³⁵⁸ Commonwealth of Australia, *Competition Policy Review Final Report*, Canberra, Commonwealth of Australia, 2015, p.31.

³⁵⁹ Crewe and Liebling, *Insider views of private sector competition*, in V. Helyar-Cardwell (ed) *Delivering Justice: the role of public, private and voluntary sectors in the prison system*, London, Criminal Justice Alliance Publications, 2012, p.26.

³⁶⁰ Ministry of Justice, *Offender Services Competitions – Annual Update 2012*, London, 2012.

³⁶¹ National Offender Management Service, *Annual Report and Accounts 2010-2011*, London, The Stationery Office Limited, 2012.

³⁶² Based on cost per prisoner per day and daily average population data provided by the Department of Corrective Services. In its Annual Report, the Department of Corrective Services states that \$756 million was spent on Adult Criminal Justice Services in 2013-14. This figure includes activities that occur outside of prisons, such as home detention and community supervision.

The introduction of the commissioning model will benefit the prison system by enhancing skills and processes that more generally support the good operation of the prison system. For example:

- The introduction of a commissioning model will require the Department to establish a tendering unit that is responsible for developing public sector tenders for each commissioning exercise undertaken by the Department. This unit will develop extensive experience in participating in tender processes and create considerable intellectual capital within the Department. The expertise of the tendering unit does not have to be limited to participating in tenders in competition with the private sector; it can also be used to develop best practice Service Level Agreements for public sector prisons that are not subject to commissioning.
- The requirement for Superintendents (in conjunction with the tendering unit) to submit tender proposals at the end of the term of their Service Level Agreements will also improve performance. Stakeholders have told the ERA that the Department operates in a risk averse manner and that this approach stifles opportunities for innovation and improvement. The opportunity for Superintendents to submit tenders prior to the development of their new Service Level Agreement offers the Department and Superintendents a regular platform to identify and incorporate operational and managerial innovations into the next edition of their Service Level Agreement. A regular opportunity to review operations and refresh practices can ensure that outdated and ineffective processes are replaced with best practice. This creates a culture of ongoing incremental improvement within the prison system.

Andrew *et al* cite poor experiences in the United Kingdom with private providers as examples to demonstrate that commissioning has not been effective. The ERA considers this to be an argument against private provision of prisons services rather than against commissioning.

Andrew *et al* also cite a review finding that commissioning was poorly implemented by the National Health Service. The ERA considers that poor implementation by one international agency does not mean that commissioning is fundamentally flawed. It simply demonstrates that the model was not appropriately implemented in that instance.

Dr Toner asserts that the 2015 report by the House of Commons Justice Committee was damning of the performance of the prison system in the United Kingdom. However, the ERA notes that all of the reasons identified by the House of Commons report for falling standards (being estate modernisation, budget cuts, staff shortages and changes to operational policy) are unrelated to commissioning.

WAPOU's concerns around changes to the terms of public sector employment in the United Kingdom are at odds with the findings of Crewe and Liebling in the study referred to earlier in this section. The authors found widespread recognition that the public prison system in the United Kingdom was in need of reform, and this reform would not have been possible without the introduction of contestability.³⁶³ The authors noted that "if it is the case that only the threat of privatisation has been able to force reform in the public sector, then this speaks volumes about public sector staff cultures and the chronic industrial relations problems that have beset the Prison Service."³⁶⁴ Although staffing levels were identified as a possible reason for falling standards in the United Kingdom prison system, Crewe and Liebling's

³⁶³ Crewe and Liebling, *Insider views of private sector competition*, in V. Helyar-Cardwell (ed) *Delivering Justice: the role of public, private and voluntary sectors in the prison system*, London, Criminal Justice Alliance Publications, 2012, p.26

³⁶⁴ Crewe and Liebling, *Insider views of private sector competition*, in V. Helyar-Cardwell (ed) *Delivering Justice: the role of public, private and voluntary sectors in the prison system*, London, Criminal Justice Alliance Publications, 2012, p.29.

findings demonstrate that falling staffing levels are more likely to be the result of system wide budget cuts rather than reforms triggered by contestability.

A number of submitters have raised a concern that the ERA has limited discussion of international examples to the United Kingdom and New Zealand. The United Kingdom is the only other jurisdiction that the ERA is aware of that has introduced a commissioning model that is broadly comparable with that recommended by the ERA.

8.2.3 *Lack of analysis on the cost of introducing commissioning*

Andrew *et al*, Dr Toner and Professor Podmore submit that the ERA has not undertaken an analysis of the cost of recommending the introduction of commissioning.

Andrew *et al* submit that research suggests that the potential cost of commissioning outweighs its benefits. Andrew *et al* note that the ERA has recommended the Department undergo considerable structural reforms, including establishing separate (and ring-fenced) Service Delivery and Commissioning Divisions. Andrew *et al* submit that the ERA is unable to establish the cost of the outcomes of introducing a commissioning model.

Dr Toner submits that the ERA has not conducted a cost-benefit analysis on its recommendations. Without a cost-benefit analysis, Dr Toner states that there is no basis for the ERA to offer its recommendations, or for the Western Australian Government to adopt the recommendations.

Professor Podmore submits that the ERA has not undertaken a full and transparent analysis of costs where competition has been implemented in a prison setting.

8.2.3.1 *ERA response*

The ERA acknowledges that it has not costed the introduction of commissioning. Conducting a full cost-benefit analysis of reform is a significant undertaking and was not possible with the time-frame and resourcing provided for this Inquiry.

Nevertheless, the ERA did take cost into account in developing its recommendations, drawing on lessons from reforms to the prison system in the United Kingdom. In particular, the ERA notes that the Institute for Government found that institutional restructuring can distract as much as it assists:

“The major institutional change in the sector came with the establishment of NOMS in 2004. Although it was set the ambitious mandate of introducing greater competition in the sector, its establishment seems to have attracted the lion’s share of political attention, effort and resources thereby exhausting any remaining political will for future reforms.”³⁶⁵

Reflecting this, the ERA has sought to recommend relatively minimal changes to the Department, to the extent that these are consistent with ensuring competing bidders can have confidence in the integrity of any tendering processes conducted by the Department. These changes, as outlined in the Draft Report, include:

- *The establishment of a Commissioning Division, responsible for managing competitive tender processes between the public sector and private operators and managing the Service Level Agreements for public prisons.*

The ERA considers any additional costs associated with this recommendation will be moderate, since:

³⁶⁵ Panchamia, *Competition in Prisons*, Institute for Government, United Kingdom, 2012, p. 6.

- the Department already manages competitive tender processes. It is not anticipated that commissioning would require additional resources as it is unlikely that the Department will be managing more than one competitive process at any one time;
- the Department already has an established team monitoring the contracts of the privately operated prisons. The introduction of Service Level Agreements for publicly operated prisons, as recommended in Chapter 5, would require the Department to augment this team to monitor the performance of public prisons. Accordingly, the ERA finds that the introduction of commissioning will not add any material costs to contract management.
- *The establishment of a Service Delivery Division, responsible for operating public prisons and submitting tenders to any commissioning process.*

The ERA recognises that some investment will be required, in particular, in establishing a team that is responsible for developing public sector tenders to commissioning processes. The Department does not have these capabilities and would have to engage experienced practitioners to establish the team and train new staff, and retain those staff on an ongoing basis.

However, commissioning will impose few changes to the operation of public prisons. Public prisons will continue to operate as they would in the absence of commissioning (that is, in accordance with their Service Level Agreements).

- *Introduction of ring-fencing arrangements.*

Ring-fencing is a common occurrence in many regulated utilities and has also been introduced in the National Offender Management Service in the United Kingdom (where it is referred to as an 'ethical wall'). The introduction of ring-fencing will require the Department to undertake a number of activities, including:

- Separating the operations of the Service Delivery Division and the Commissioning Division to ensure that both divisions operate independently of each other.
- Developing clear guidelines and processes for communication between the Commissioning Division and the Service Delivery Division to ensure that the Service Delivery Division is not privy to communication that is not available to non-governmental organisations participating in a commissioning exercise.
- Restricting access to information. The introduction of a ring-fencing arrangement will require strict document management processes that limit the Service Delivery Division from accessing departmental information that may provide it with an advantage in a commissioning exercise.

While this will involve some investment, the ERA notes that the Department is currently undertaking reform and redesign of its processes, in relation to both staff and information systems. Any changes needed to introduce ring-fencing could be incorporated into this existing reform program.

- Finally, the introduction of a commissioning model will require a probity auditor to be established. Prior to engaging a probity auditor, the Department will need to identify the probity risks associated with a commissioning process and develop a plan that details the scope and nature of the probity services that will be delivered.

The ERA considers that the benefits derived from increased competition from commissioning, as described in Section 8.2.2 above, will outweigh the costs of introducing commissioning.

8.2.4 Risks and costs associated with private provision of prison services

Andrew *et al*, Professor Podmore and WAPOU observe that private sector provision of prisons can expose the Government to risks and costs arising from poor performance. These submitters believe that the need to appropriately monitor and manage those risks imposes additional costs on the Government, including the costs of designing and monitoring contracts.

Andrew *et al* and Professor Podmore cite instances of poor performance by providers of private prison services. These included the death of Mr Ward during transportation by G4S, serious misconduct by Serco staff at Mount Eden (New Zealand), and mismanagement of a US women's prison by Corrections Corporation of America.

Andrew *et al* and Professor Podmore submit that the Government (and by extension, taxpayers) remain liable for breaches of duty of care by private sector contractors as it cannot delegate its responsibilities.

Professor Podmore states that serious disruption to services and financial costs may occur if service quality is so poor that the service provider is required to relinquish the contract. Professor Podmore highlights that sourcing an alternative provider may be difficult, take some time and require considerable resource input from Government and that these costs are rarely taken into account.

Andrew *et al*, Professor Podmore and the CPSU/CSA discuss the costs and sufficiency of contract design and monitoring arrangements. Andrew *et al* submit that adversarial relationships between public bodies and private contractors will increase transaction costs because of the need to redesign contracts and monitor service delivery to prevent abuses.

Professor Podmore states that the cost to the Government of private providers failing to supply appropriate services should be fully met by private providers and terms to this effect should be included in any contract with a private provider. Professor Podmore submits that contractual cost recovery clauses may not be sufficient to mitigate the financial risk to the Government of using private operators because private companies are able to structure their corporate affairs in a manner that limits any liability to a local arm of the company, effectively shielding the central company from risks.

Professor Podmore submits that government employees responsible for contract monitoring need to have a high level of competence and experience to ensure that high quality services are delivered. Professor Podmore suggests that this competence and experience may be lacking because of a tendency of private sector providers to poach government employees involved in setting, letting and managing contracts. Professor Podmore therefore advises that Government departments should conduct a comprehensive skill audit of its staff.

The CPSU/CSA notes that the Department of Corrective Services is responsible for on-site monitoring of the Serco's performance against its contract at Acacia. The CPSU/CSA submits that the on-site monitoring of Acacia has been reduced by 50 per cent of FTEs over the past two and a half years. The CPSU/CSA states that this could reduce the capacity of the Department to monitor Serco's compliance and the safety and security of prisoners.

Professor Podmore cites the experience that resulted in G4S and Serco overcharging the United Kingdom Government for electronic tagging, which involved impropriety on behalf of these two organisations. However, Professor Podmore states that partial responsibility needs to be attributed to the lack of competency of the government officials responsible for the day-to-day management of the contract.

8.2.4.1 ERA response

The ERA considers that many of these arguments made by submitters are against private provision of prisons services rather than against commissioning, *per se*. The ERA considers that the decision as to whether prisons should be operated by private providers is a public policy decision that has been applied by successive Governments, and will remain a decision for Government into the future.

The ERA acknowledges the point made by Andrew *et al* and Professor Podmore that the Government (and by extension, taxpayers) remain liable for breaches in duty of care by private sector contractors, as the Government cannot delegate its responsibilities. However, the ERA notes that the Government also retains full responsibility for any breaches of duty of care by the public sector. In some respects, liability for breaches of duty of care by private providers can be more straightforward to address than those of public providers, as Government can and does apply financial penalties to the private sector for poor performance.

As noted in Section 8.2.1, the ERA considers that private provision of prisons has in fact contributed to increased transparency and accountability of the Western Australian prison system, and hence improved management of overall risks. Concerns around private provision of the State's prison services directly led to the establishment of a mechanism for independent scrutiny for both private and public sector prisons, as legislated by the *Prisons Amendment Act 1999*. The Act came into effect on 8 December 1999, establishing the Office of the Inspector of Custodial Services, and strengthening oversight of all prisons in Western Australia.³⁶⁶

The ERA agrees with Professor Podmore and the CPSU/CSA that private sector provision of prison services (including private delivery procured through a commissioning model) needs to be supported by sound contracts and contract monitoring processes. The ERA has included a discussion on contract management arrangements in Section 8.7.4 of this Final Report.

8.2.5 Whether commissioning will increase competition

Andrew *et al*, WAPOU, and Professor Podmore all submit that commissioning will not increase competition for the provision of prison services.

Andrew *et al* submit that research demonstrates the importance of *reducing* contestability in the delivery of services, in order to ensure high quality of services, make the best use of limited public resources, and protect vulnerable people.

Andrew *et al* also state that, even if increasing contestability is the goal of the Inquiry, it is doubtful whether commissioning will achieve this. Andrew *et al* cite research that suggests private involvement in service provision has no definite connection to increased contestability, and that a study of health care service commissioning across multiple countries found that commissioning failed to introduce a competitive environment for services, improve the flexibility and choice of providers, or improve service provider transparency.

Andrew *et al*, Professor Podmore, and WAPOU submit that commissioning will lead to consolidation and a market dominated by large multi-national organisations. They raise the following points:

³⁶⁶ Office of the Inspector of Custodial Services, 'History', <http://www.oics.wa.gov.au/about-oics/history/> (accessed on 9 September 2015).

- Andrew *et al* submit that commissioning may lead to more rigidity because private providers would only operate the most profitable facilities, leaving more problematic institutions for public operation. Andrew *et al* state that there is evidence that this already occurs in Western Australia, with the newest prisons being operated by the private sector. It is therefore their view that the overall process would entail an unequal share of burdens and rewards between the public and private sectors.
- Professor Podmore submits that those responsible for purchasing prison services attempt to drive down unit prices by making contracts as large as possible to maximise economies of scale. Professor Podmore submits that in the case of services this may involve, for example, contracts to provide education in all prisons rather than a single prison. In the case of a new prison, Professor Podmore states that this may occur by building the largest possible prisons or co-locating multiple prisons together.

Professor Podmore submits that the end result will be a compilation of large, multi-million dollar contracts that rule out all but the largest players in the market. He states that this problem is then compounded because the costs of tendering increase with the complexity of the contracts.

Professor Podmore submits that large multinationals have been accused of using loss leader tactics to gain market share, drive competitors out and increase costs as they move towards monopoly provision.

- WAPOU states that commissioning can eliminate diversity, independent advocacy and competition. WAPOU further states that commissioning forces smaller organisations out of the system, with those that remain losing their independence and capacity to criticise the system. WAPOU submits that this results in a shrinking pool of voluntary organisations and a concentrated and homogenised prison system.

Finally, WAPOU submits that commissioning does not offer a level playing field, a view that it asserts is consistent with the conclusion of the House of Commons Justice Committee which has stated that private companies “benefit from greater ability to make capital investments in the hope of recouping the benefit over the lifetime of the contract, while the public sector processes restrain such investment.”³⁶⁷

8.2.5.1 ERA response

Andrew *et al* cite research to substantiate arguments that: reducing contestability is needed to ensure improved delivery of human services; private involvement in service provision has no definite connection to contestability; and commissioning has failed to introduce a competitive environment. The ERA has addressed each of these points, and the supporting research below.

- *Reducing contestability* – Davidson³⁶⁸ observes that high initial barriers to entry minimise opportunism and can ensure that all providers are aiming to maximise the quality and efficiency of their services. The author suggests that erecting barriers to entry that limit, but do not eliminate market participation, will ensure better outcomes.

³⁶⁷ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015, p.70.

³⁶⁸ Davidson, ‘Contestability in human services markets’, *Journal of Australian Political Economy*, (68), 2011 pp.213-239.

Without commenting on the merit of Davidson’s argument, the ERA observes that the existing barriers to entry to the prison system are sufficient to eliminate opportunistic operators.

- *No definite connection between private provision of services and contestability* – The assertions by Andrew *et al* appear to conflict with the conclusions in the article by Cowie³⁶⁹, that they cite. Cowie concludes “the only ‘sensible’ model of introducing contestability is in the form of Demsetz competition through regulation, where by and large the strategic and tactical levels remain the preserve of the public sector, and the operational level is maintained by the private sector”³⁷⁰

From this conclusion it is clear that that author advocates for a framework of contestability that includes the private provision of services.

- *Commissioning failed to introduce a competitive environment in the health sector* – Ham³⁷¹ does not conclude that commissioning failed to introduce a competitive environment in the health sector.

The author observes that commissioning is only one element in a program of health reforms and its impact is affected by how the other elements of reform are implemented. The author concluded that those supporting reforms were not introduced in the manner necessary to ensure the success of commissioning.

The ERA questions the validity of the argument by Andrew *et al* that commissioning benefits the private sector at the expense of the public sector since private providers would only operate the most profitable facilities, leaving more problematic institutions for public operation. The Government and the public sector do not profit from the provision of public services. Any services provided by the Government come at a cost to the Consolidated Fund. *If* the private sector is able to provide services of the same quality at a lower cost than the public sector, this represents a saving to the Government, even if it means that the public sector continues to provide remaining, more expensive services.

Professor Podmore submits that those responsible for purchasing prison services will attempt to drive down prices by making contracts as large as possible to maximise economies of scale, and that this will result in market consolidation. The ERA considers that this concern can in part be addressed by the Department taking a strategic approach to contracting, including by recognising potential risks in advance. Further, cost should be just one consideration that agencies take into account in awarding contracts. Other service considerations (such as quality, cultural appropriateness, and location) may lead the Department to enter into smaller contracts with a wider range of service providers.

The ERA also highlights that the recommended commissioning model includes direct competition from the *public* sector. The presence of the public sector would ensure the ongoing existence of competition, which would mitigate against loss-leader tactics, and prevent any monopoly from developing.

WAPOU submits that commissioning does not offer a level playing field. It states that this view is consistent with the conclusion of the House of Commons Justice Committee report, which notes that that private companies “benefit from greater ability to make capital

³⁶⁹ Cowie, ‘Contestability in bus markets – evidence from the British de-regulated market’, *Applied Economics*, 44(36), 2012 pp.4777-4785.

³⁷⁰ Cowie, ‘Contestability in bus markets – evidence from the British de-regulated market’, *Applied Economics*, 44(36), 2012, p.4785.

³⁷¹ Ham, ‘World class commissioning: a health policy chimera?’, *Journal of Health Services Research & Policy*, 13(2), 2008, pp.116-121.

investments in the hope of recouping the benefit over the lifetime of the contract, while the public sector processes restrain such investment.”³⁷²

The ERA notes that the House of Commons report goes on to state that “(w)e conclude that public sector prisons need greater capacity to invest in cost-effective and operationally beneficial improvements in the way that the private sector does”. This conclusion aligns with the ERA’s recommendations. Currently, Superintendents are unable to make capital investments with the hope of recouping the benefit over the following years. The introduction of Service Level Agreements with, for example, five year terms will provide Superintendents with the ability to manage their finances in a more flexible manner that allows them to undertake capital investments. Additionally, where investments require additional funding, public prisons will be able to outline the rationale for such investments in their tender document, and so make a case for any additional investment required.

8.2.6 Involvement of the not-for-profit sector

Andrew *et al*, Professor Podmore and WAPOU submit that not-for-profit organisations are unlikely to be involved in a prison system that uses commissioning:

- Andrew *et al* submit that not-for-profits are unlikely to add to the number of market participants in the commissioning process.
- Professor Podmore submits that the United Kingdom Government has attempted to increase the participation of charities in prison contracts by introducing contracts for probation services that consist of three tiered consortia (large multinational companies, large national service providers and smaller local charitable organisations). Professor Podmore states that these contracts have only just come into existence and have yet to be evaluated. He highlights that the probation service has been rolled out nationally in one hit and has never been trialled. It is his view that it is a multi-billion pound program based on ideology rather than evidence.
- Professor Podmore cites previous contracting arrangements (that is, Work Programme, designed to support the unemployed back to work) in the United Kingdom that have contributed to the closure of small charities. Some charities have indicated that the program has created service cash flow problems and that their contract was unsustainable.
- WAPOU submits that the ERA’s view that robust competition will be created by the involvement of the voluntary sector is misguided. WAPOU states that some organisations view the ‘market for punishment’ as being too morally objectionable by some organisations, and that it amounted to being privatised through the back door.

8.2.6.1 ERA response

The ERA does not agree that not-for-profit organisations are unlikely to be involved in the prison system under a commissioning model.

The ERA notes the not-for-profit sector already has substantial involvement in delivering services to both prisons and community corrections in Western Australia, and has demonstrated a willingness to collaborate with both the public and private sectors.

In its Annual Report, the Department states:

³⁷² House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015, p.70.

“In 2014-2015, the Department provided funding of \$30.7 Million for 111 service agreements with 51 not-for-profit agencies across the state. The not-for-profit sector delivers services to an estimated 12,000 offenders each year. Approximately 45% of these services are delivered in prison with 55% delivered in the community”³⁷³

The Department presently has contracts with the not-for-profit sector to provide, for example, chaplaincy services to prisoners, parenting advice and support services, and re-entry services to former prisoners.

The not-for-profit sector also partners with private prison providers in Western Australia. Under an arrangement with Serco, case officers from Mission Australia work with prisoners from the Wandoo Reintegration Facility, before and after prisoners are released, to address issues such as alcohol and drug abuse, accommodation, employment, and family connections.³⁷⁴

The ERA acknowledges that contracts between the public sector and the not-for-profit sector can be structured in a manner that favours the public sector at the expense of the not-for-profit sector. However, the Western Australian Government has sought to improve the way it collaborates with the not-for-profit community sector in recent years through a Partnership Forum and the establishment of partnership principles and behaviours.³⁷⁵ The knowledge developed through this initiative will help to support greater collaboration between the Department and not-for-profit organisations in the future.

The ERA also considers that there is further scope for the Department to improve the way it contracts with the not-for-profit sector, based on discussions with not-for-profit providers in the course of this Inquiry. The Department should ensure that its interactions and contractual arrangements with the not-for-profit sector are consistent with the Partnership principles and behaviours. The ERA has included this as a recommendation in this Final Report (refer to Section 8.7.5).

8.2.7 Commissioning is not needed to support innovation

Andrew *et al* and Professor Podmore question the extent to which a commissioning model will encourage innovation in the Western Australian prison system. Andrew *et al*, Professor Podmore and Dr Toner all note that innovation can be driven by specific initiatives within the public sector.

Andrew *et al* note that the ERA provides evidence of innovation taking place in private Western Australian prisons. However, Andrew *et al* note that the two private prisons were established under a direct procurement model, not commissioning. Therefore, Andrew *et al* argue these prisons do not make an obvious case for commissioning. Andrew *et al* submit that the innovations cited could have been instituted with relative ease in any public prison. Andrew *et al* state that the introduction of new information technology need not rely on market competition, but instead a commitment to upgrading infrastructure.

³⁷³ Department of Corrective Services, 2015, *Department of Corrective Services Annual Report 2014-15*, Perth, p. 140.

³⁷⁴ Serco, 2012, *Focusing on reintegrating youth into the community*, accessed from <http://www.serco-ap.com.au/our-services/our-work/wandoo-reintegration-facility/> on 7 September 2015.

³⁷⁵ The mission of the Partnership Forum is to bring together leaders from State Government agencies and the not-for-profit community sector to improve outcomes for all Western Australians through a genuine partnership in the policy, planning and delivery of community services in Western Australia. Source: Department of the Premier and Cabinet, 2014, *Partnership Forum*, accessed from <http://www.partnershipforum.dpc.wa.gov.au/Pages/Default.aspx>

Professor Podmore notes that the Draft Report makes much of technological innovation at Acacia. Professor Podmore notes that the Draft Report identified culturally specific innovations that have occurred in West Kimberley Regional Prison.

Professor Podmore argues that better drivers to innovation come locally, emanate from state-sponsored research, and a policy of seeking and rolling out best practice. Professor Podmore submits that the key to such processes will be Superintendents and prison officers who can be easily ignored when it comes to innovation. Similarly, Professor Podmore states that harnessing the knowledge of Superintendents and staff may be more valuable than relying on competition.

Dr Toner notes that innovation by Serco is supported by a specific Innovation Fund in the contract between Serco and the Department. The contract allows for payments of up to \$250,000 per annum where Serco is able to propose an innovative system or procedure provided at Acacia that is also transferable to other prisons in Western Australia. Dr Toner suggests that the Innovation Fund that is currently available to Serco be expanded to all prisons, under the current governance arrangement.

8.2.7.1 ERA response

The ERA agrees with submitters that competition is not the only way of driving innovation in the prison system, and that more can and should be done to encourage innovation within public prisons.

The point that the ERA could have more clearly conveyed in the Draft Report is that greater competition, including involvement by the private sector, may generate a range of benefits for the prison system, of which innovation is one. This is because of the profit motive of the private sector and the role of innovation in assisting private enterprise to be efficient, improve products, and open new markets.³⁷⁶

The ERA acknowledges that innovation can and does occur in both the public sector and the private sector. However, research by Cankar and Petkovšek (hereafter Cankar *et al*) indicates that the private sector and the public sector have different drivers for, and barriers to, innovation, and that cross-sector collaboration tends to create better and more effective public and private services and products.³⁷⁷

In particular, Cankar *et al* note that:

“Innovation in the public sector is usually hindered by a lack of competition and by limited financial incentives for improvement. Different barriers can be identified that hinder innovation in the public sector. One is definitely the absence or inadequacy of resources, which is identified as a main barrier to innovation. This is not only a lack of financial support, but also refers to shortages in the relevant skills and human resources, or in the opportunities to enlist other support services required for the implementation of innovation.”³⁷⁸

The ERA agrees with Andrew *et al*, Professor Podmore, and Dr Toner that more can be done to support public sector innovation by addressing these barriers. This may include, as they have suggested, better recognising the role of Superintendents and staff as important sources of innovations, potentially extending the Innovation Fund to public sector

³⁷⁶ S. Cankar. and V. Petkovšek,, *Private and Public Sector Innovation and the Importance of Cross-Sector Collaboration, The Journal of Applied Business Research*, vol. 29, no. 6, 2013, p. 1600.

³⁷⁷ S. Cankar. and V. Petkovšek,, *Private and Public Sector Innovation and the Importance of Cross-Sector Collaboration, The Journal of Applied Business Research*, vol. 29, no. 6, 2013, p. 1600.

³⁷⁸ S. Cankar. and V. Petkovšek,, *Private and Public Sector Innovation and the Importance of Cross-Sector Collaboration, The Journal of Applied Business Research*, vol. 29, no. 6, 2013.

prisons, and committing to upgrade information technology. This will complement the benefits arising from greater competition in the prison system.

The ERA notes the observation by Andrew *et al* that the examples of innovation cited in the Draft Report arose under a direct procurement model, not a commissioning model. The ERA does not consider that there is any reason why commissioning would lead to lesser innovation outcomes than direct procurement. Both models lead to a greater degree of competition, and this competition, by extension, drives innovation.

8.2.8 Greater support needed for local Aboriginal organisations

KALACC expresses support for recommendations by Amnesty International in its 2015 report: *There is always a brighter future – Keeping Indigenous kids in the community and out of detention in Western Australia*. Two such recommendations highlighted by KALACC are that:

Recommendation 3 - The Western Australian Government commit to funding Aboriginal organisations and communities, including through preferential tendering, to support Aboriginal designed and led programs at all stages of the justice system.

Recommendation 4 - The Minister for Corrective Services issue the Youth Justice Division with a clear direction to work with local Aboriginal organisations throughout Western Australia to: encourage and, where necessary, assist them to apply for funding for the programs mentioned in Recommendation 3.

ALSWA also urges the ERA to make specific recommendations about the provision of programs and services for Aboriginal prisoners, including that tendering and commissioning procedures for prison programs and services enable Aboriginal-controlled organisations to compete effectively with larger non-governmental organisations.

8.2.8.1 ERA response

The ERA agrees with KALACC and ALSWA that it is important for the Department to engage with Aboriginal organisations that are capable of delivering services within the prison system.

The ERA notes that the Amnesty International report and associated recommendations relate to youth justice services, which falls outside the scope of this Inquiry, but recognises that lessons from the youth justice system may also have the potential to improve the adult system.

The ERA understands that recommendation 3 and 4 of the report have, at least to some extent, been implemented by the Youth Justice Division of the Department of Corrective Services.³⁷⁹ For example, the Minister for Corrective Services has established a Youth Justice Board, whose members have expertise in Aboriginal mental health, Aboriginal affairs, drug research, child health, and business.³⁸⁰ The Board administers a Youth Justice Innovation Fund, which has received an initial funding allocation of \$2 million. From this fund, the Youth Justice Board will provide grants for innovative approaches that address issues of offending and re-offending among Aboriginal youth. In particular, the fund will provide seed capital to promising community-based crime prevention and diversion

³⁷⁹ Department of Corrective Services, 2015, *Partnering to support Aboriginal youth*, accessed from http://www.correctiveservices.wa.gov.au/_news/default.aspx?page=1 on 8 September 2015.

³⁸⁰ Department of Corrective Services, 2014, *Innovation fund to target youth crime*, accessed from http://www.correctiveservices.wa.gov.au/_news/default.aspx?id=1113&page=1 on 8 September 2014.

programs targeted towards young Aboriginal people.³⁸¹ Organisations that have received funding to date include the ALSWA, KALACC and the Wirrpanda Foundation.³⁸²

The ERA has considered whether it would be appropriate to recommend extending the recommendations of Amnesty International to adult custodial services, which falls within the scope of this Inquiry. Specifically, the ERA has considered whether to recommend that:

- the Minister provide clear direction to Adult Justice Services to work with Aboriginal organisations;
- the Department commit to funding Aboriginal organisations; and
- the Department commit to preferential tendering for Aboriginal organisations.

In relation to each of these points, the Department has advised the ERA that:

- It does not currently actively encourage Aboriginal organisations to supply services for adult custodial services (as it does for youth justice services). The Department is currently focussing on co-designing youth programs with Aboriginal organisations. The Department advised that it intends to adopt a similar process with adult programs once the process for youth justice has matured (and when the Department is ready to tender for new adult programs). The Department considers that working with Aboriginal organisations in the area of youth justice will assist the capacity of these organisations to provide adult services in the future.
- The Department does not currently provide funding to Aboriginal organisations for adult custodial services the way it does for youth justice services through the Youth Innovation Fund.
- The Department does not currently give preferential treatment to Aboriginal organisations in procuring services for the prison system. The Department advises that the criteria used to assess the ability of organisations to deliver programs are based on the specific needs of the program. These criteria do include some form of assessment of cultural competency, including the use of Aboriginal staff, but the Department does not have specific, standard criteria for assessing the ability of not-for-profit organisations to provide services to Aboriginal people.
- The Department has recently appointed an Aboriginal Cultural Advisor (within the Office of Reform) to provide strategic advice on Aboriginal issues, including procurement issues. This advisor has been involved in recent procurement processes to ensure that the needs of Aboriginal people are considered when procuring services.

The ERA considers that it is appropriate for the Department to prioritise engagement with Aboriginal organisations for youth justice services, reflecting that 69 per cent of offenders in custody in the youth justice system are of Aboriginal descent.³⁸³ The ERA also considers it appropriate for the Department to assess and ensure that co-designing programs with Aboriginal organisations results in effective outcomes and funding from the Youth Innovation Fund before extending similar initiatives to adult corrective services.

The ERA agrees with stakeholders that Aboriginal organisations should be involved designing and delivering programs to Aboriginal people. However, the ERA is reluctant to recommend that the Department apply preferential tendering for such organisations, since

³⁸¹ Department of Corrective Services, 2014, *Innovation fund to target youth crime*, accessed from http://www.correctiveservices.wa.gov.au/_news/default.aspx?id=1113&page=1 on 8 September 2014.

³⁸² Department of Corrective Services, 2015, *Partnering to support Aboriginal youth*, accessed from http://www.correctiveservices.wa.gov.au/_news/default.aspx?page=1 on 8 September 2015.

³⁸³ Department of Corrective Services, *Quick Reference Statistics May 2015, Young people in detention*, Perth, Government of Western Australia, 2015, p. 2.

the Department needs to maintain sufficient flexibility to select the best candidate to deliver services and maximise rehabilitation outcomes. However, the ERA does consider that the Department should draw upon the knowledge and experience of existing Aboriginal service providers, and its Aboriginal Cultural Advisor, to review and develop criteria for assessing the capacity of organisations to deliver culturally appropriate programs for Aboriginal people.

The ERA has made a recommendation to reflect this conclusion (see Section 8.7.6).

8.3 Benefits of competition

Public money is scarce, and the Government is responsible for ensuring that these funds are spent appropriately. The Department cannot be sure that resources are being spent efficiently if it does not consider all available options. It is through robust competition that the Department is able to consider the options that are available to it.

There are many examples of the benefits that competition has introduced to the prison system. These include:

- *Choice* – The introduction of competition provides the Department with the choice to select the prison services that best meet its needs. Competition encourages businesses to compete for customers (in this case the Department) and can result in lower prices, better quality, greater choice, and higher levels of innovation.
- *Better quality* – The Office of the Inspector of Custodial Services observed, in its 2014 report assessing recidivism rates and the impact of treatment programs, that prisons that were performing well against its standards also delivered lower recidivism rates than prisons that were struggling to provide services and meet the standards of the Office.³⁸⁴ At the time of the report, the Office of the Inspector of Custodial Services viewed both Acacia³⁸⁵ and Wandoo³⁸⁶ as being high performing facilities.
- *Innovation* – Acacia prison has introduced a range of innovations to the Western Australian prison system. These include:
 - Custodial Management System – An electronic kiosk system that allows prisoner movements to be tracked and allows prisoners to access their account balances, purchase items from the canteen, top up their phone allowance, order their meals in advance, and check their timetables for appointments and visits. Messages and notices from staff can also be delivered through the Custodial Management System kiosk.
 - Story Book Dads – This initiative allows prisoners to make a recording on compact disc of their child’s favourite bedtime story. The disc is then mailed to the child to play at home.

³⁸⁴ Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, Perth, Government of Western Australia, 2014, p. ii.

³⁸⁵ Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, Perth, Government of Western Australia, 2014, p. 10.

³⁸⁶ Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, Perth, Government of Western Australia, 2014, p. 13-14.

- Meal choices – Prisoners are able to select from three choices for the evening meal. Providing prisoners with meal choices reduced food wastage by 15 per cent³⁸⁷ at no additional cost to the prison.
- *Reduced costs* – Between 2009 and 2011, the National Offender Management Service in the United Kingdom ran a competitive process for the opportunity to operate four prisons, three established and one new build, with the public sector successfully tendering for one of the established prisons. The result of this competitive process is that the National Offender Management Service expects the combined operational costs of the three established prisons to fall by 16 per cent (£200 million, approximately AUD \$400 million) over the life of the contracts.³⁸⁸

8.3.1 Arguments against introducing competition

Arguments have been made against prisons being operated by private enterprise on the basis that businesses should not profit from the involuntary imprisonment of people,³⁸⁹ and that the profit motive will incentivise private operators to cut costs and provide inferior services³⁹⁰. The ERA observes that the Western Australian Government (and governments in other national and international jurisdictions) has determined that these risks can be appropriately managed.

The Office of the Inspector of Custodial Services was established, when Acacia was placed into private operation, to provide oversight of private prisons in Western Australia. Reports by the Office of the Inspector of Custodial have addressed concerns that privately run prisons would cut costs and be unable to deliver appropriate services. In the Office of the Inspector of Custodial Services' most recent inspection of Wandoo, the Inspector found that in many areas, Wandoo exhibited best practice in Western Australia.³⁹¹ Similarly, findings from the most recent inspection at Acacia indicate that the prison is also performing well.³⁹²

In any case, by “competition”, the ERA does not mean “privatisation”. The ERA expects that prison management and prison services will continue to be delivered by a mix of public, private and not-for-profit service providers. It would be a decision for the Department, on a case-by-case basis, to determine which service provider is best able to deliver the services being sought.

At the public roundtable meeting held by the ERA on 21 April 2015, it was suggested that a recent British House of Commons Justice Committee report reviewing prison planning and policies³⁹³ had concluded that it was unclear whether a recent deterioration in safety standards and performance across the United Kingdom prison estate was due to budget cuts or the introduction of commissioning. It was put forward that given the possibility that

³⁸⁷ New South Wales Legislative Council, *Inquiry into the privatisation of prisons and prison-related services*, 2009, p. 85.

³⁸⁸ Ministry of Justice (UK), *Offender Services Competitions Annual Update 2012*, London, United Kingdom Government, 2012.

³⁸⁹ Ryan M and Ward T, *Privatization and the Penal System: The American Experience and the Debate in Britain*, Open University Press, 1989, p 83-84.

³⁹⁰ Porter R.G., 'The Privatisation of Prisons in the United States: A Policy that Britain Should Not Emulate', *The Howard Journal*, vol. 29, no. 2, 1990, p. 73-74.

³⁹¹ Office of the Inspector of Custodial Services, *Report of an announced inspection of Wandoo Prison*, Perth, Government of Western Australia, 2014, p. 75.

³⁹² Office of the Inspector of Custodial Services, *Report of an announced inspection of Acacia Prison*, Perth, Government of Western Australia, 2014, p 72.

³⁹³ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015.

commissioning could be the cause of performance deterioration in the United Kingdom, the ERA should exercise caution in recommending the introduction of commissioning in Western Australia.

The report contains few references to commissioning and where it does, it implicitly supports the use of commissioning. Specifically, when discussing prison industries the report states that:

“...the current commissioning arrangements for prison work and learning and skills do not appear to support the integration of these two vital aspects [the aims of involving prison industries on a commercial basis and normalising a working week for prisoners] of rehabilitation. We recommend that the Ministry of Justice and the Department for Business, Innovation and Skills take steps to ensure that the next round of commissioning for learning and skills in prisons prioritises arrangements for embedding learning in the various forms of purposeful activity in which prisoners are engaged.”³⁹⁴

The report gives relatively little attention to the broader concept of competition, despite it being explicitly referenced in the Terms of Reference. Of the 34 conclusions and recommendations offered in the report, competition is addressed only once.

The report states that “the benchmarking of prisons to develop more efficient regimes is in principle an effective way of reducing expenditure more rapidly than would be possible through prison-by-prison competition”.³⁹⁵

This observation does not dismiss competition, rather it remarks on the speed with which reductions in expenditure can be achieved, in principle. Although the ERA does not agree that reducing expenditure is the sole objective for introducing benchmarking and/or competition, and that benchmarking and competition are substitutes, the ERA broadly agrees that benchmarking is an effective way of reducing expenditure across the prison system more rapidly than would be possible through prison-by-prison competition.

The report did not conclude that introduction of commissioning was one of the reasons standards of safety and performance had fallen. Rather, the report identified estate reconfiguration³⁹⁶, benchmarking³⁹⁷ and changes to operational policy³⁹⁸ and the shift in safety across the prison estate as the likely reasons for the fall in standards.³⁹⁹

The report did not conclude that the introduction of commissioning was responsible for the deterioration in safety standards the United Kingdom prison system. Rather it concluded that the fall in staffing levels, stemming from redundancies and increased staff turnover, were likely to have affected safety standards.⁴⁰⁰

³⁹⁴ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015, p.24.

³⁹⁵ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015, pp.69-70.

³⁹⁶ The prison estate in the United Kingdom has been reconfigured using the “new-for-old” program in which old and inefficient facilities are closed as modern cheaper establishments open, whilst maintaining sufficient places to meet demand.

³⁹⁷ Benchmarking in the United Kingdom is informed by the specification, benchmarking and costing program referred to in Chapter 5.

³⁹⁸ This refers to the standardisation of some aspects of prison operations that had previously been left to the discretion of the prison Governor. Explicit reference is made to the Incentives and Earned Privileges scheme and the Release on Temporary Licence scheme.

³⁹⁹ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015.

⁴⁰⁰ House of Commons Justice Committee, *Prisons: planning and policies*, London, Government of the United Kingdom, 2015.

8.4 Options for introducing greater competition

Competition can be introduced in a number of ways, depending on the level of competitive tension desired. Three approaches are discussed below:

- applying greater competitive tension to in-house service delivery;
- direct procurement; and
- commissioning.

8.4.1 *Applying greater competitive tension to in-house service delivery*

Under this approach, the Department would have a greater focus on comparing the performance of individual prisons using Service Level Agreements and benchmarking. These comparisons, combined with the potential of not renewing the fixed term contracts of Superintendents, would increase competitive tension in the public system.

Service Level Agreements specify the services and standards expected of each prison, and benchmarks are used to compare the performance of each prison. The introduction of Service Level Agreements is intended to provide Superintendents with clarity around the objectives of the prison, certainty about how the prison's performance will be measured, and the autonomy to achieve these outcomes in the manner they consider most effective. This allows Superintendents to direct their resources to activities that best achieve the desired performance.

Benchmarks and a weighted scorecard introduces competitive tension by explicitly identifying those prisons that are performing poorly against the benchmarked measures. Benchmarking allows prison performance to be compared. There are inherent challenges in comparing different prisons (as discussed in Chapter 6). Nonetheless, high-level comparisons between prisons can be made to determine relative performance in order to assess whether prisons are performing poorly or well.

The ERA considers that the weighted scorecard approach will encourage the strongest improvements in performance by prisons that are performing below average, as the managers of these prisons seek to improve their performance at least to the average.

Prisons that are already performing above the targets for performance benchmarks will also have incentives to improve their performance, as they seek to maintain and improve their ranking compared to other prisons within the system and to move into higher performance grades.

Competitive tension is strengthened when benchmarking is combined with fixed term contracts for Superintendents. Fixed term contracts will encourage Superintendents to ensure that the prison they are managing is performing to a standard that is acceptable to the Department.

The ERA considers that competition would remain limited under an approach that only compares the performance of individual prisons using Service Level Agreements and benchmarks, because it does not introduce additional providers to the market.

8.4.2 *Direct procurement with private providers*

This approach involves the Department entering into a contract with a non-public provider to operate a prison or services within a prison. This is generally achieved through a tender process that ideally involves multiple potential service providers competing for the

opportunity to operate the prison in question, or the opportunity to provide specific services within the prison (for example, education or health services).

Direct procurement is the main approach used in Australia and New Zealand when engaging private prison providers. Direct procurement was also used in the United Kingdom, but has subsequently been replaced with a commissioning approach. The Department used direct procurement when Serco was awarded the contracts to operate Acacia prison and the Wandoo reintegration facility.

The ERA considers that the introduction of direct procurement (as a complement to Service Level Agreements and benchmarking) would create additional competition. However, competition would remain limited because the direct procurement model excludes the public sector from competing for the opportunity to operate the prison or prison service. This denies Superintendents the opportunity to use their experience and expertise to reconsider how services can be provided in a more effective manner.

The additional competitive benefit of direct procurement is generated by creating an environment in which non-public service providers compete with each other for the opportunity to provide the services being tendered. However, the benefits of competition are largely limited to the specific prison or prison services being tendered.

Direct procurement generates few system wide benefits. Despite suggestions that private sector involvement in the prison system will increase innovation and lead to a cross-fertilisation of ideas, the extent to which this has occurred appears to be limited.

This can be observed in the Western Australian context. The direct benefit created by each of the privately operated prisons in Western Australia can be observed from the primarily positive inspection reports published by the Office of the Inspector of Custodial Services, and the annual performance reports published by the Department. However, the introduction of private operation to Acacia and Wandoo does not appear to have led to material improvements across the prison system, despite a range of innovations being introduced at Acacia and Wandoo.

The prospect of replacing the management of poor performing prisons could be used to encourage these prisons to improve performance. However, doing so only encourages these prisons to address areas of poor performance, to the extent that the prison is no longer one of the relatively poor performing prisons. Replacing poor performing Superintendents offers them little incentive to improve overall performance and/or build on areas of good performance.

8.4.3 Commissioning

Commissioning is a model of decision-making that aims to provide choices in the way government services are provided. It prioritises collaborative and flexible decision-making, emphasising the need for service outcomes to be consistent with the Government's objectives, rather than dictating the way in which services should be provided.

The commissioning approach recognises that the public sector is not always best placed to provide a range of public services. For example, it is common for governments to contract out bus services, since the day-to-day operation of a bus company is rarely considered a core business of government. Conversely, the Government may be best placed to operate other services (for example, many of the core functions in public schools).

The defining characteristic of commissioning is that it does not rely on a pre-determined model for the way in which public services are delivered. Unlike direct procurement, commissioning allows Departmental and non-departmental service providers to participate in the process. This results in a move away from a 'Department as the default provider'

approach, and establishes processes and guidelines that allow agencies to consider and choose from a range of alternative providers.⁴⁰¹

Wholesale privatisation of the prison system is neither the aim of the commissioning approach, nor its likely outcome.⁴⁰² Rather, the approach focuses on providing choice and ensuring that the organisations that are most likely to achieve the stated objectives are those providing the services. It aims to offer an environment in which contestability, competition, and collaboration between public, private and not-for-profit service providers are actively encouraged.^{403,404}

Under the commissioning approach, a Commissioning Division within the Department would determine the outcomes that it wants from a specific prison or prison service, and invite public, private and not-for-profit providers (or any combination of these groups) to tender for the opportunity to provide these services.

Public sector providers would compile their own tender and compete directly with other providers. However, tender documents are time and resource intensive documents to compile. Superintendents are unlikely to have the time or full range of skills required to put together a successful tender document. It would also be unworkable for the burden of producing a tender document to fall solely on those responsible for operating Western Australia's public prisons (that is, Superintendents).

In order to adequately compete with other providers, the public prison system would have to develop a central 'tendering unit' with the capability to submit commercial tenders, and for these tenders to be informed by extensive knowledge of best practice and innovative prison operations. The tendering unit would be responsible for coordinating with operational staff to develop public sector tenders.

This specialist team would have a sole focus on best practice prison operations and would use this knowledge to produce commercially competitive tender documents.

There are similarities between commissioning and direct procurement. However, commissioning has a broader focus on the 'big picture', seeking to understand the fundamental aims of agencies and governments, and the resources available to achieve them. In doing so, it prioritises flexibility, innovation, collaboration, and a focus on core objectives.

Figure 25 provides an overview of the key stages of traditional procurement, and shows how they compare to the stages of commissioning shown in the outer circle.⁴⁰⁵

⁴⁰¹ CIPS Australasia, *The UK Public Sector concept of commissioning*, Melbourne, CIPS Australasia, 2010, p.5.

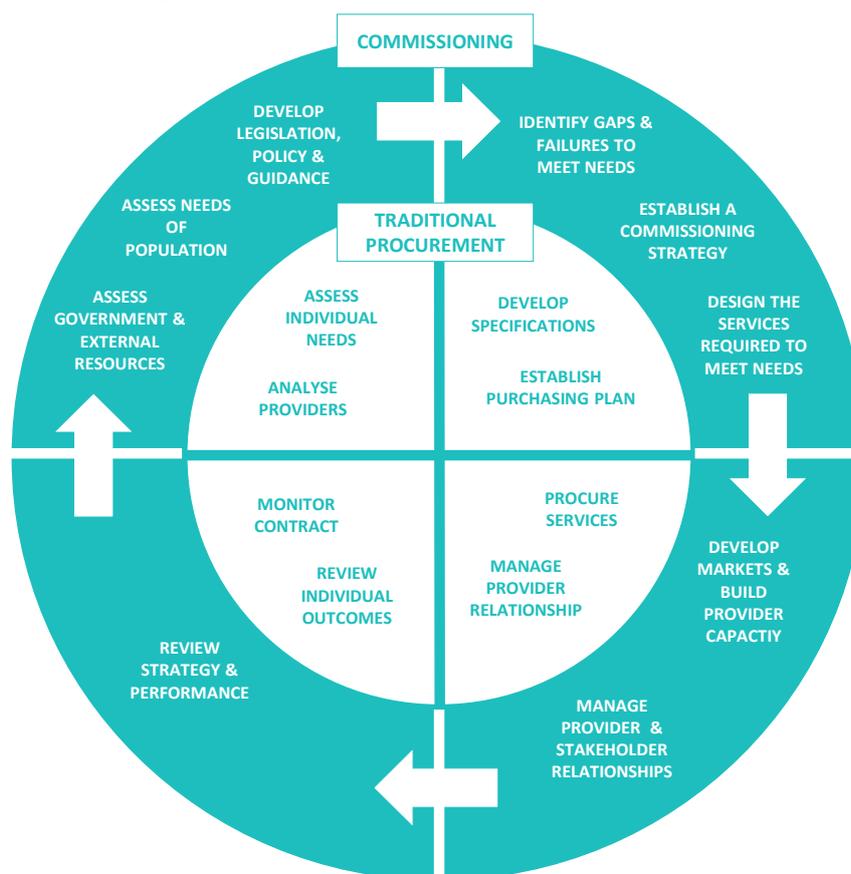
⁴⁰² In the UK, where direct procurement and then commissioning have been in place since 1992 and 2009, respectively, only 14 of the 119 prisons in the estate are privately operated. Data sourced from the UK Ministry of Justice website.

⁴⁰³ Ernst and Young, *Public Service Commissioning: A catalyst for better citizen outcomes*, Ernst and Young, 2014, p. 3.

⁴⁰⁴ For example, a commissioning approach may result in a group of purely public sector organisations working together to deliver the best outcome, where the Department of Corrective Service, police, courts, and health or education agencies collaborate to deliver a particular service.

⁴⁰⁵ Based on CIPS Australasia, *The UK Public Sector concept of commissioning*, Melbourne, CIPS Australasia, 2010, p. 10.

Figure 25 Commissioning versus traditional procurement



Source: CIPS Australia, *The United Kingdom Public Sector concept of commissioning*, 2010.

National Competition Policy Review

The recent Competition Policy Review chaired by Professor Ian Harper (**the Review**) has endorsed the use of commissioning for human services.

The Review recommended that each Australian government should adopt choice and competition principles in the domain of human services.⁴⁰⁶

The Review stated that by commissioning the provision of human services with an outcome focus, governments could encourage a diversity of supply, which can have important benefits for users in relation to choice, adaptability, and innovation. In commissioning human services, the Review stated that governments should:⁴⁰⁷

- encourage careful commissioning decisions that are sensitive and responsive to individual and community needs, and recognise the contribution of community organisations and volunteers;
- ensure that commissioned services are contestable and service providers face credible threats of replacement for poor performance;
- establish targets and benchmarks for service providers based on outcomes, not processes or inputs; and

⁴⁰⁶ Commonwealth of Australia, *Competition Policy Review Final Report*, Canberra, Commonwealth of Australia, 2015, p. 36.

⁴⁰⁷ Commonwealth of Australia, *Competition Policy Review Final Report*, Canberra, Commonwealth of Australia, 2015, p. 244.

- offer financial rewards for performance above specified targets.

8.5 Why is commissioning the optimal outcome?

The ERA considers commissioning to be the best approach for introducing greater competition to the Western Australian prison system because it:

- increases the choice of potential service providers; and
- requires Superintendents to take a more commercial approach, generating system wide improvements.

8.5.1 Increased choice of potential service providers

Commissioning creates the greatest degree of competition by increasing the choice of service providers available to the Department. This is achieved by removing the barriers to competition that prevent Superintendents and alternative service providers (private and not-for-profit) from directly competing with each other.

In instances where the public sector is successful, commissioning delivers better outcomes than would be achieved from direct procurement. The experience in the United Kingdom shows that with appropriate training and structures in place, the public sector is capable of producing successful tenders.⁴⁰⁸ Commissioning will result in better outcomes than direct procurement in cases where the public sector successfully tenders for a prison against private competitors. This is because direct procurement would have excluded the provider best placed to deliver the services.

There are considerable barriers to entry in compiling tender documents to operate a prison or supply prison services. The ERA has been told that it can cost over \$1 million to compile a tender document to bid to operate a prison. Such barriers to entry may result in only large private sector providers participating in a tender process (commissioning or direct procurement).

However, it is possible that some large not-for-profit organisations will have the capacity to bid to operate a prison. The ERA notes that not-for-profit organisations have successfully tendered for significant government contracts across Australia. For example, the Salvation Army is responsible for delivering employment and training services for the Federal Government in more than 90 locations across metropolitan, regional and remote areas of Australia.⁴⁰⁹ While the ERA is unaware as to whether there would be interest from the larger not-for-profit agencies to undertake such a considerable role in the prison system, it appears that some agencies have the skills and financial capability to participate if they choose.

In the event that a tender process attracts only one alternative provider (as was the case when the Wandoo contract was tendered in 2011) the presence of a public sector competitor introduces genuine competition that would be absent in a direct procurement process.

The barriers to entry discussed above refer to the cost of tendering for the opportunity to manage the operations of a prison. However, it is possible for the Department to seek to tender out individual prison services under the commissioning model, such as rehabilitation programs, health services (physical and mental health), and education. The cost of

⁴⁰⁸ During phase one of the UK National Offender Management Service's prisons competition, four prisons were subject to a commissioning process. Her Majesty's Prison Service was successful in its tender for one of these prisons, HMP Buckley Hall.

⁴⁰⁹ The Salvation Army – Employment Plus, *Nearest Office*, 2015, <http://www.employmentplus.com.au/find-office/> (accessed 29 September 2015).

tendering for these individual services is considerably lower than the cost discussed above. The lower cost will allow not-for-profit organisations to continue to provide services within the prison system.

Direct commissioning between the Department and not-for-profit organisations to provide individual prison services is not the only way to ensure that not-for-profit sector is engaged with the prison system. The private sector can also partner with the not-for-profit sector, with the private sector generally acting as the lead party in contracting with the Department.

This approach has been already adopted in Western Australia. The ERA notes that Serco has partnered with Mission Australia to target issues like alcohol and drug abuse, prisoner accommodation on release, employment, and family links.⁴¹⁰ In seeking expressions of interest to manage the women's remand and reintegration facility being built at Hakea Prison, the Department has explicitly stated its expectation that submitters will collaborate with a range of providers, including not-for-profit organisations.⁴¹¹

In the United Kingdom, the Government has provided the National Offender Management Service with explicit direction to encourage collaboration between large private sector prison service providers and voluntary sector organisations in order to compete for services to work with offenders.⁴¹² Wright and Jones documents how Catch22, a registered charity that offers rehabilitation services to prisoners,⁴¹³ successfully partnered with Serco and Turning Point⁴¹⁴ to deliver services at Doncaster Prison designed to improve long-term outcomes and reduce recidivism.⁴¹⁵

8.5.2 System wide improvements

Commissioning requires Superintendents to take a more commercial approach to service delivery, which via the tendering unit, can be used to generate system wide improvements. In doing so, commissioning provides the public sector with a legitimate platform for reviewing the manner in which services are delivered within each prison.

The tendering unit would be responsible for developing public sector tenders for each commissioning exercise undertaken by the Department. Over time, this unit would acquire extensive experience in participating in tender processes and create considerable intellectual capital within the Department.

It is neither practical nor optimal for the Department to subject every prison to a commissioning process at the expiry of its Service Level Agreement. The cost alone would be prohibitive when compared to the likely benefits.⁴¹⁶

⁴¹⁰ Serco Asia Pacific, 'Wandoo Reintegration Facility', <http://www.serco-ap.com.au/our-services/our-work/wandoo-reintegration-facility/>, 2015, (accessed 23 September 2015).

⁴¹¹ Department of Corrective Services, *Invitation to submit an Expression of Interest for the management and operation of the Women's Remand and Reintegration Facility*, Perth, Government of Western Australia, 2015, p.3

⁴¹² Wright and Jones, 'Something old, something new: Catch22's work in Doncaster Prison', in V. Helyar-Cardwell (ed) *Delivering Justice: the role of public, private and voluntary sectors in the prison system*, London, Criminal Justice Alliance Publications, 2012, pp.55-56.

⁴¹³ For more details see: <http://www.catch-22.org.uk/>

⁴¹⁴ A registered charity focused on providing services relating to substance misuse, learning disability, mental health and employment. See: <http://www.turning-point.co.uk/>

⁴¹⁵ Wright and Jones, 'Something old, something new: Catch22's work in Doncaster Prison', in V. Helyar-Cardwell (ed) *Delivering Justice: the role of public, private and voluntary sectors in the prison system*, London, Criminal Justice Alliance Publications, 2012, p.55.

⁴¹⁶ The cost of undertaking a commissioning process for the Department is considerable. Given the considerable cost to non-public providers of participating in a commissioning exercise, it is unclear whether

The expertise of the tendering unit does not have to be limited to participating in tenders in competition with the private sector; it can also be used to develop Service Level Agreements and deliver public sector reforms by ensuring that Superintendents are more effectively held to account for the outcomes they are expected to deliver.⁴¹⁷ It is through this process that the tendering unit would be capable of introducing material, system wide change.

For those prisons that are not subject to commissioning, the tendering unit can be used to develop a 'tender' document for the prison as though it were participating in a competitive tender. The prison's new Service Level Agreement can be developed from this 'tender' document, as it would be if it were successful in a commissioning process.

This process will not be subject to the same competitive tension that direct competition would create. However, it would ensure that there is a systematic review of every prison in the estate, ensuring operations and standards systematically evolve over time to maintain best practice.

The ERA has observed that the Department is unduly risk averse and subject to cumbersome bureaucracy. Both of these characteristics have the effect of disproportionately stifling innovation within the public prison system, even in the presence of innovation that has been developed within Western Australia and proven to improve operations. Commissioning frees Superintendents from these constraints to develop efficient best practice services. Box 13 discusses two innovations that have been introduced in Acacia prison and publicly praised by the Department, but are still yet to be introduced to the public prison system.

they would have the financial appetite or human capital to participate in multiple commissioning exercises concurrently.

⁴¹⁷ Ministry of Justice (UK), *Competition Strategy for Offender Services*, London, United Kingdom Government, 2011, p. 6.

Box 13 - Innovation introduced at Acacia Prison

Two examples of innovations that would improve the public system are Serco's introduction of the Custodial Management system kiosks and the introduction of a menu system for evening meals, both at Acacia Prison.

Custodial Management System kiosks are ATM-style kiosks located in the accommodation blocks and common areas of the prison. Each prisoner has their own profile, which they can access by scanning their fingerprint and entering their own personalised code. Once a prisoner has logged into the system, they can access their account balances, purchase items from the canteen, top up their phone allowance, order their meals in advance, and check their timetables for appointments and visits. Messages and notices from staff can also be delivered through the kiosk.⁴¹⁸

The menu system at Acacia provides prisoners with the choice of three meal options for the evening meal, one of which is vegetarian.

In evidence provided to a 2009 New South Wales inquiry into the privatisation of prisons and prison-related services, the Department's contract manager for Acacia Prison referred to the Custodial Management System kiosks as fantastic and "light years ahead of anything I have seen anywhere else in the world".⁴¹⁹

To the same inquiry, the contract manager stated that Acacia's "fantastic"⁴²⁰ menu system⁴²¹ reduced food wastage by 15 per cent and he believed that it would be introduced across the public prison system.

8.6 How can commissioning be introduced?

The introduction of commissioning needs to be supported by a framework to manage the conflicts of interest that potentially arise from government acting as both the commissioning agent (commissioning function) and a participant in the commissioning process (service delivery function, including the tendering unit and Superintendents). Alternative service providers are less likely to submit a tender if they perceive conflicts of interest because it creates uncertainty about their chances of success. This may reduce the extent of competition, unless conflicts of interests are, and are seen to be, appropriately managed.

In the Discussion Paper, the ERA proposed addressing this issue by separating the commissioning activity from the service delivery activity. The ERA suggested that this could be achieved by removing one of those activities from the Department.

In the Discussion Paper, the ERA concluded that there is greater synergy from having the policy function and the commissioning function in the same Department than there is from having policy and service delivery housed together. Accordingly, the ERA proposed removing service delivery from the Department and making it an independent organisation, as shown in Figure 26.

⁴¹⁸ Office of the Inspector of Custodial Services, *Report of an announced inspection of Acacia Prison*, Perth, Government of Western Australia, 2014, p 42.

⁴¹⁹ New South Wales Legislative Council, *Inquiry into the privatisation of prisons and prison-related services*, Sydney, Government of New South Wales, 2009, p. 85.

⁴²⁰ New South Wales Legislative Council, *Inquiry into the privatisation of prisons and prison-related services*, Sydney, Government of New South Wales, 2009, p. 85.

⁴²¹ Where inmates are given a choice of three dishes to eat at any particular meal.

Figure 26 ERA's proposed structure of the prison system – Discussion Paper



However, some stakeholders expressed concern that the structural reforms proposed by the ERA in the Discussion Paper to address probity issues may be too cumbersome. The ERA has reconsidered the structural reforms required to support a commissioning approach. Having done so, the ERA has identified two alternative structures under which a commissioning approach could be implemented. These two frameworks are discussed in turn below.

8.6.1 Ring-fencing activities within the Department and establishing a probity auditor

Under this approach:

- The commissioning function and the service delivery function (including tendering unit and Superintendents) would be retained within the Department, but a ring-fence separating the two divisions responsible for these functions would need to be established.⁴²²
- The decisions of the Commissioning Division would need to be overseen by a newly-established independent probity auditor. The probity auditor would participate as an independent observer of tender processes and publish a post-tender probity review assessing the fairness of the process. The review could include recommending modifications to processes or Departmental structure for future tender processes.

Under this model, probity concerns are not addressed through structural separation of the commissioning and Service Delivery Divisions, as suggested in the Discussion Paper. Rather, they are addressed by ring-fencing the Service Delivery Division responsible for operating the publicly managed prisons (including the newly established tendering unit) from the remainder of the Department, including the Commissioning Division responsible for managing the commissioning process and awarding tenders.

The purpose of ring-fencing the Service Delivery Division from the remainder of the Department is to prevent it from accessing information that would provide it with an unfair

⁴²² In the context of this report, the ERA has adopted the term 'ring-fence' to denote an operational separation between divisions designed to manage risks of improper influence or conflicts of interest.

advantage over alternative service providers when participating in a commissioning process.

In this approach, the ring-fencing arrangement is complemented by the presence of an independent probity auditor. The probity auditor would provide advice on the conduct of the commissioning process (including the tender evaluation procedures), ensure that the commissioning rules and procedures are followed, and ensure the commissioning process is conducted fairly and tenders received are assessed in accordance with the stated evaluation criteria. The role of probity auditor is to monitor the tender, evaluation and selection processes to ensure that they are defensible and conducted in a fair and unbiased manner.⁴²³

The probity auditor may attend and monitor meetings of the Commissioning Division. The probity auditor may also be required to advise on the composition of the tender evaluation team to ensure that there are no conflicts of interest and that the team contains the appropriate skills for the evaluation.

The probity auditor should have unrestricted access to all documentation and communication related to any commissioning process and publish a report that reviews the commissioning exercise and recommends amendments to the commissioning process or Departmental structure for future commissioning exercises.

8.6.2 Independent decision-making agency

Under this approach:

- A newly established decision-making agency (that is independent of both the Department and Government) would be responsible for managing commissioning processes and determining successful tenderers.
- The decision-making agency would not be responsible for identifying areas (prisons or individual services) that would benefit from being subject to a commissioning process or specifying the details of the services that are to be commissioned (that is, compiling the request for tender document packs that are distributed to interested parties). This would be the role of a Commissioning Division within the Department.
- The Commissioning Division and the Service Delivery Division (including tendering unit and Superintendents) would both be contained within the Department. There would not be a ring-fence between the two divisions. Probity concerns would be addressed by ensuring that the commissioning process is managed by the independent decision-making agency.

Under this framework, the Service Delivery Division may hold a competitive advantage over non-public providers as it may have access to information about the parameters of the commissioned services before alternative providers. Advance access to this information would provide the Service Delivery Division with a competitive advantage if non-public providers are not afforded sufficient time to develop comprehensive tender documents. However, provided all parties are afforded sufficient time, this risk is considerably mitigated. There will always be an advantage to being provided more time to develop a tender document, but this advantage diminishes over time. The ERA is of the view that timeframes for responding to a request for tender can be managed to ensure that any competitive advantage is immaterial.

The decision-making agency has no input into the design of the request for tender pack and is solely responsible for conducting a process that best achieves the outcomes specified by

⁴²³ University of Tasmania, *Probity in Tendering - Guidelines*, Hobart, 2005.

the Department in the request for tender. For the purposes of transparency, any supplementary instructions or contextual information required by the decision-making agency in order to conduct the commissioning process efficiently should be made available to all parties participating in the process.

The independence of the decision-making agency addresses any remaining areas for potential competitive advantage or conflict of interest.

8.6.3 Conclusion

Theoretically, the best model would be to separate the Commissioning Division from all potential providers, irrespective of their sector. This enables true competition, provides a mechanism for churn between sectors, and ensures consistent standards are applied across sectors. Thus, if the Department decides that new prison management is required, the separation between purchaser and provider enables the public, private sector and not-for-profit sectors to compete against each other on equal terms in a way that meets probity standards.⁴²⁴

Structural separation between the Commissioning Division and the Service Delivery Division, which establishes an independent agency responsible for service delivery, resolutely addresses the conflict of interest concerns. However, it also represents a considerable disruption for the Department, and the costs of establishing another agency are not guaranteed to outweigh the marginal benefit of this option.

Uncertainty about the net benefit of establishing an independent Service Delivery Division could potentially be remedied by expanding the scope of the Commissioning Division and the Service Delivery Division to encompass, for example, youth justice⁴²⁵ and community corrections. The ERA notes that the idea of introducing commissioning for youth justice services has been recommended by the Office of the Inspector of Custodial Services in the past.⁴²⁶

The ERA is of the view that it is likely that increasing the number of services that are subject to commissioning to include youth justice and community corrections would generate considerable benefits to the corrective services system in Western Australia. However, as youth justice and community corrections activities are outside the scope of this Inquiry, the ERA has not undertaken analysis that would determine with certainty whether the benefit of such action would outweigh the costs.

Of the remaining options, the introduction of an independent decision-making agency to the commissioning process is the next most robust approach. However, as with the full structural separation approach, it is not clear that this would be economic.

Firstly, it is unlikely that there will be sufficient workload to sustain an independent decision-making entity. Assuming that fixed-term Service Level Agreements are introduced to all public prisons, it is unlikely to be strategically or operationally optimal for all prisons to be subject to a commissioning exercise during the term of their Service Level Agreement or contract. The ERA notes that at the end of the original term of the Acacia contract between Serco and the Department, the Department did not undertake a competitive process prior to awarding Serco with a five-year contract extension.

⁴²⁴ R. Harding, 'Private Prisons', *Crime and Justice*, vol. 28, 2001, pp. 309-310.

⁴²⁵ The ERA recognises that the Youth Justice Innovation Fund is responsible for commissioning youth justice services. However, the Youth Justice Innovation Fund has a budget of \$2 million, out of a total annual budget for youth justice of \$106 million in 2013-2014.

⁴²⁶ Office of the Inspector of Custodial Services, *Directed Review into an Incident at Banksia Hill Detention Centre on 20 January 2013*, Perth, Government of Western Australia, 2013.

Similarly, the ERA observes that of the 120 prisons under the authority of the National Offender Management Service in England and Wales, only ten per cent of them have been subjected to a commissioning process in the six years since a commissioning framework was introduced in 2009.

If the same proportion of prisons in Western Australia were subject to commissioning over the proposed five year term of a Service Level Agreement, only one or two would be subject to a commissioning process.⁴²⁷

The ERA has considered the possibility that the responsibility for these activities be placed in the Office of the Inspector of Custodial Services. However, the ERA considers that having the Office of the Inspector of Custodial Services responsible for reviewing and awarding tenders and then inspecting the performance of those same operators to which it has awarded tenders is likely to compromise its independence.

The final option is to internally restrict the Department by ring-fencing the Service Delivery Division from the remainder of the Department. Unlike the other two approaches, the Department would remain responsible for managing the commissioning process and participating in that same process. Although this approach is less robust than the other two options, the ERA is confident that the presence of a probity auditor and a ring-fenced Service Delivery Division provide an appropriate and proportionate framework to address the probity issues. In addition, this approach is more practical, more economic, and less disruptive than the two alternative options.

The ERA is satisfied that ring-fencing the Service Delivery Division from the remainder of the Department will achieve robust levels of probity without imposing undue economic costs, provided the following conditions are met:

- The probity auditor is completely independent of the Department.
- The probity auditor is not restricted in his or her ability to monitor the tender, evaluation and selection processes.
- Following the conclusion of any commissioning exercise, the probity auditor publishes a post-commissioning review that includes lessons for future processes.

8.7 Implementation and other considerations

The introduction of a commissioning approach will require a relatively substantial change to the way that the Department and the prison system currently operates. It will not be possible for the Department to introduce commissioning in the short-term. The Department will need to complete a number of preparatory reforms and associated tasks. In this section, the ERA provides a high-level discussion of the sequencing of key reforms and associated tasks required *before* commissioning can be implemented, as well as a more detailed discussion of some of the key reforms and tasks that will be required *as part of* implementing commissioning. These latter reforms and tasks include restructuring the Department, prioritising prisons and services for commissioning and enhancing the Department's contract management capability.

In the remainder of this section, the ERA also provides a discussion of how the Department can best engage not-for-profit organisations and local Aboriginal organisations in the commissioning process.

⁴²⁷ There are 15 prisons in Western Australia, not including Broome, which has been classified as an annex of West Kimberley since September 2014.

8.7.1 Sequencing of key reforms and associated tasks

The ERA has identified a number of key reforms and associated tasks that should be undertaken to improve the efficiency and performance of the prison system. Some reforms or tasks will need to occur before others, as they form the foundation for subsequent reforms. Other reforms and tasks can occur independently and should be implemented without delay. In this section, the ERA provides a high-level outline of the sequencing of key recommendations.

The following are reforms and tasks that need to occur *before* commissioning can be introduced. (The ERA notes that these reforms and tasks would need to occur even if commissioning were not introduced.)

- *Address issues with information management systems* – The Department will need to address limitations with its information management systems as a first priority. Currently, the Department does not have the information it requires to measure performance standards, including benchmarks, for each prison. In addition, the Department's existing information systems would not permit it to cost individual prison services, which is key to the implementation of Service Level Agreements and commissioning.
- *Implement weighted scorecard approach* – The Department should implement the weighted scorecard approach as soon as it has addressed issues with its information management systems, providing it with the necessary information. It is intended that the Department will use the weighted scorecard to assess and compare the performance of individual prisons in Western Australia and identify areas for improvement. Weighted scorecards may also help to identify prisons that could be prioritised for commissioning.
- *Robust planning of the overall needs of the prison system* – The Department will need to engage in a comprehensive forward planning exercise to ensure that the combined objectives of individual prisons deliver the overall objectives of the prison system as a whole. As part of this process, the Department will need to establish an operating philosophy and objectives for each prison in the estate. This is a key step in the development of Service Level Agreements.
- *Service specification and costing exercise* – The Department will need to conduct a service specification and costing exercise (as described in Section 5.6.3) as part of the development of Service Level Agreements. This will involve clearly defining the services to be delivered, and the funding and staffing required to efficiently deliver those services. This is fundamental to ensuring that prisons have sufficient financial and staff resources to deliver the service standards expected under Service Level Agreements. This exercise is dependent upon the Department having robust financial information management systems and analytical capabilities.
- *Implement Service Level Agreements* – Many of the preceding reforms and tasks will support the introduction of Service Level Agreements. The ERA considers that Service Level Agreements are a priority reform for the Department because they will formalise the relationship between the Department and Superintendents of public prisons, and improve the accountability and transparency of the public prison system. This formalisation is an important precursor to the introduction of commissioning.

A commissioning approach can be implemented once these reforms and tasks have been completed. In addition, there are several key reforms and tasks that must be completed as *part of* the process of implementing commissioning. (That is, reforms and tasks that are only required to specifically support commissioning, and are not needed to support other reforms recommended by the ERA.) These include:

- restructuring the Department in order to separate the Service Delivery Division from the Commissioning Division;
- developing a framework for prioritising prisons and prison services that should be subject to a commissioning process; and
- enhancing the Department's contract management capability.

Each of these are discussed in more detail in the following sections.

8.7.2 Restructuring the Department

Although the commissioning model recommended in this report does not require the transfer of responsibilities from the Department to an independent agency, the introduction of commissioning does require the Department to alter the structure of some of its operations.

The most significant of these modifications is the ring-fencing of the Service Delivery Division (including the tendering unit and Superintendents) from the remainder of the Department. In this arrangement, communication between the Service Delivery Division and the remainder of the Department is subject to criteria that specifies the conditions under which the two entities may communicate, and the information they are able to share in that communication. All of this communication will be made available to the probity auditor.

The role and responsibilities of the probity auditor will also need to be established and a probity auditor appointed.

Commissioning represents a change to the manner in which the Department operates and the activities in which it engages. The Department will have to introduce or improve its existing processes and skills in order to engage effectively in these activities. Some activities will be new to the Department. In these circumstances, it will be required to develop internal skill sets in order to be able to complete its role effectively. This includes the development of internal commercial tendering skills within the tendering unit.

8.7.3 Prioritising prisons and services for commissioning

As discussed in Section 8.5.1, a commissioning model affords the Department the flexibility of commissioning the opportunity to manage whole prisons or deliver individual services that are provided in prison, such as health or education services.

The ERA is not in a position to recommend the optimal number of prisons that should be subject to a commissioning process at any point in time, or the services that the Department should prioritise subjecting to a commissioning process. This is a decision for the Department. The ERA has, however, identified factors that the Department should take into account when considering the prisons or services that should be subject to a commissioning process.

With respect to commissioning prison management, the ERA suggests that the Department could prioritise prisons for commissioning based upon prison performance and potential for gains from innovation.

The Department is likely to realise the greatest benefit by subjecting underperforming prisons to a commissioning process because these prisons have the greatest potential for improvement. However, commissioning is not a cost-free exercise and before engaging in a commissioning exercise, the Department should provide any underperforming prisons with sufficient time to remedy any shortcomings and, where appropriate, offer additional support, training and resources to address the causes of underperformance. The Department should consider engaging in a commissioning process if reasonable endeavours to address the problems have been unsuccessful.

Commissioning acts as a ‘competition of ideas’ from which the Department can select the best option. The competition created by commissioning means that potential service providers are likely to rely on the development of new practices and processes in order to deliver the outcomes expected by the Department. Commissioning provides a mechanism for the Department to collect innovative ideas from a range of external sources and thereby broaden the Department’s exposure to advances in prison management and service delivery.⁴²⁸ Accordingly, the Department should consider prioritising commissioning prisons or services that are likely to lend themselves to the delivery of particularly innovative outcomes, or commissioning services targeted at a specific cohort of prisoners that require unique consideration.

Irrespective of how the Department determines which prisons and prison services should be subject to a commissioning process, it is highly unlikely that the workload created from introduction of commissioning would be sufficient to economically justify the establishment of an independent commissioning agency.

8.7.4 Contract management

Stakeholders have queried whether the Department has sufficient capacity to manage the contract design and contract management activities that it would be responsible for under a commissioning model. Stakeholders have stressed the importance of well-designed contracts and effective ongoing management of contracts to maintain high performance standards across the prison system.

The ERA agrees that effective contract management is fundamental to achieving the outcomes specified in both contracts with private service providers, and Service Level Agreements with public service providers. The ERA considers that it is important the Department ensure it is appropriately prepared, resourced and skilled for the introduction of Service Level Agreements (as recommended in Chapter 5) or commissioning.

The Department currently has some contract management staff who are responsible for managing the contracts between the Department and Serco for the operation of Acacia and Wandoo. The existing complement of contract management staff will need to be expanded for the Department to effectively manage the introduction of Service Level Agreements for public prisons and the introduction of commissioning across the prison system. If the commissioning model recommended by the ERA is introduced, the contract management staff would reside in the Commissioning Division.

The Department must be able to ensure it is receiving the services it is paying for, and good contract management is a means by which the Department can ensure that this is achieved.

Box 14 provides a brief overview of the three main components of good contract management, being: designing a good contract; managing and monitoring contracts; and ensuring that contracts can adapt to changing circumstances. Each component is

⁴²⁸ Ebersberger, Herstad, Iversen and Som, *Open innovation and Europe: Effects, determinants and policy*, prepared for the European Commission Directorate-General Enterprise, European Commission, Oslo, 2011, p.vi

Box 14 – Components of good contract management

There are three main components of good contract management:

- designing a good contract;
- effectively managing and monitoring contracts once they are operational; and
- ensuring contracts can adapt to changing circumstances.

Contract design – Contracts must specify the outcomes/outputs the Department seeks in clear, unambiguous language. Steps should be taken to ensure that parties to the contract have a common understanding of the terms and conditions of the contract. The Department will need to ensure that it has sufficient staff to monitor contracts before entering into new contracts.

Managing and monitoring contracts – To effectively manage a contract the Department must:

- have a clear understanding of the key tasks arising from each contract and have a plan to complete those tasks in a timely manner;
- collect information from service providers to ensure that the service provider is able to continue meeting its contract obligations and that the Department is able to identify and address early signs of risks;
- understand and have processes in place to comply with its various obligations (be they legislative, regulatory, political or commercial); and
- ensure that the information needed to manage contracts is collected and is organised in a manner that allows for easy access and review.

Adapting to change - Contracts and contract management processes may need to evolve over time to adapt to changing circumstances. The Department will be better positioned to deal with changing circumstances if it has well-documented procedures. This includes having robust processes to follow when changing the terms of a contract, regularly reviewing its contract management processes for areas that can be improved, and establishing detailed dispute resolution processes.

Each component is discussed in more detail below.

8.7.4.1 *Initial contract design*

The ERA has discussed initial contract design in detail in Section 5.6. In Section 5.6, the ERA highlighted the importance of developing contracts that: are supported by robust planning, are sufficiently flexible, are realistic and achievable, and offer incentives for good performance.

In the remainder of this section, the ERA discusses the processes and frameworks that the Department should follow in order to ensure that its contracts are robust and effective.

It is through a contract between the Department and each service provider (be it public or private) that the Department specifies the outcomes and standards it expects each prison to achieve.⁴²⁹ Contracts should clearly specify the service provider's responsibilities for services and the delivery standards so the Department is confident it will receive the services for which it is paying. Clear, unambiguous statements of requirements and service standards reduce the potential for disputes between the Department and service providers.

⁴²⁹ Australian National Audit Office, *Developing and Managing Contracts – Better Practice Guide*, Canberra, Government of Australia, 2012. pp.27-28.

Poorly specified contracts are also more difficult to monitor and enforce. Contracts, which have clearly defined terms and service standards, remove the need for administrators to use discretion to determine whether service standards are met, and to decide the consequence for failure.⁴³⁰

An important component of the initial contract design is for the Department to ensure that it has sufficient staff with the appropriate skillsets to effectively manage all contracts between the Department and service providers. Doing so will ensure that each prison is meeting the standards established in the relevant contract. The staff tasked with monitoring the performance of prisons against contracts need to have specific skillsets.⁴³¹

The ERA suggests that the Department conduct an audit of the existing staff allocated to monitoring the performance of prisons in Western Australia to:

- determine how many additional staff will be needed to effectively monitor all prisons against their contract; and
- identify any skill gaps in contract management that need to be addressed through targeted recruitment and additional training.

8.7.4.2 Ongoing contract management

Once a contract has commenced, the Department must ensure that it is receiving the services for which it is paying. That is, the Department must assure itself that service providers are achieving the standards and outcomes specified in their contracts. This on-going assurance can be supported by the introduction of a range of process and activities, which include:

- *Contract administration* – Effective contract administration will involve the Department having a clear understanding of the key tasks arising from contracts with service providers and establishing a plan to prioritise and complete those tasks in a timely manner. The ERA suggests that the Department develop a Contract Administration Manual, which would serve as a central reference point for the contract director. A Contract Administration Manual would establish an understanding of:
 - the key tasks that need to be completed, who is responsible for completing those tasks and by when. This will include identifying the obligations of the Department and assigning accountabilities.
 - how the Department will undertake its role, in particular the resources, delegations and authorisations required within the Department to fulfil its contractual obligations.
 - the consequences of non-performance by the Department or the service provider. The manual should specify any contingency plans and dispute resolution mechanisms.

A Contract Administration Manual could also be used as a central record of definitions of key contract terms, including a description of how key terms have been interpreted in the past. Clearly defined contract terms are important for ensuring the

⁴³⁰ Victorian Auditor General 2010, *Management of Prison Accommodation Using Public Private Funds*, Melbourne, Government of Victoria, 2010, p.8.

⁴³¹ Australian National Audit Office, *Developing and Managing Contracts – Better Practice Guide*, Canberra, Government of Australia, 2012. p.88

parties to the contract have a common understanding of the contract, and that the service provider can comply with the contract.

There is a risk that the interpretation of key terms can change over time due to turnover of contract management staff within the Department. The Department should review the Contract Administration Manual on a regular basis to ensure it remains current.⁴³²

- *Performance monitoring* – Performance monitoring is a process by which the Department collects information from service providers to ensure that the service provider is able to continue meeting its contract obligations, and the Department is able to identify early signs of risks and put appropriate measures in place. The Department will need to ensure that it has an effective performance monitoring and reporting strategy based upon robust performance measures, an understanding of the operating capacity of individual service providers, regular reviews of performance against specified standards, and proactive management of risks.⁴³³

As noted by Professor Podmore, insufficient monitoring by public officials of private service providers in the United Kingdom provided an opportunity for private providers to overcharge the government for the provision of electronic monitoring services.⁴³⁴ Overcharging could have been prevented had public officials employed more robust performance monitoring practices. This should include monitoring invoices provided by private operators and cross-checking invoices against relevant data. This would discourage private operators from overcharging because of the risk of such behaviour being identified and punished. Monitoring also ensures that issues are identified early and do not escalate into significant problems.

- *Governance and compliance practices* – Outsourcing the management of prisons to the public or private sector will potentially expose the Department to a variety of commercial, political, legislative and regulatory obligations.⁴³⁵ The Department is responsible for ensuring that it complies with these obligations. The Department should develop and document practices that must be undertaken to ensure its compliance with all relevant laws, regulations, and government policy.⁴³⁶
- *Knowledge and information management* – Effective management of contract information is a key component of good contract management. The Department needs to ensure that the information needed to manage its contracts with service providers is collected, and is organised for easy review and access.⁴³⁷ As outlined in Section 7.3.3 of this Final Report, the ERA considers that there is scope to improve the Department's record keeping practices. The ERA considers it likely that these issues extend to the management of contract information.

8.7.4.3 Adapting to change

Contracts and contract management processes may need to evolve over time to adapt to changing circumstances. The Department will be better positioned to deal with changing

⁴³² Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, p. 15.

⁴³³ Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, pp.15 - 16.

⁴³⁴ Professor John Podmore, *Submission to the Economic Regulation Authority of Western Australia – Inquiry into the Efficiency and Performance of Western Australian Prisons, Draft Report*, 2015, Section 3 – Quality.

⁴³⁵ Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, p. 17.

⁴³⁶ Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, p.17.

⁴³⁷ Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, p.18.

circumstances if it has well-documented procedures. The Department can prepare itself for these eventualities through:

- *Change management* – The Department must ensure that change events are managed smoothly without creating unnecessary risk or the unintended acceptance of risk by the Department.⁴³⁸ This includes establishing appropriate protocols for managing change, ensuring that potential changes are thoroughly assessed by suitably experienced personnel, relevant stakeholders have been appropriately consulted about any changes, and robust processes have been established for documenting any changes.

Contingency planning – Contingency planning will assist the Department in responding to unplanned events and managing the effects of such events on service delivery.⁴³⁹ For example, in New Zealand, the Department of Corrections recently took control of the Serco operated Mt Eden Corrections Facility.⁴⁴⁰

Contingency planning involves identifying (ahead of time):

- potential high-risk events and the potential consequences of those events;
- how relevant contract provisions would apply if a high-risk event were to occur; and
- contingency plans that will be implemented when a high-risk event occurs.

Contingency planning may also need to inform the contract design phase. This may involve the Department estimating the likely cost of implementing contingency plans and ensuring that service providers will bear the costs of any contingency plans for events they cause.

- *Ongoing review of processes* – The Department will need to regularly review its contract management processes to ensure that it is adapting to changing circumstances and ensuring that improvements are incorporated as contracts are revised.⁴⁴¹ Process reviews may also need to occur in response to specific situations, including, disagreements between the Department and the service provider about expected and actual outcomes, and significant changes to the external environment in which the prison system operates (such as unexpected growth in prison population).
- *Dispute resolution procedures* – Disputes between the Department and service providers should be infrequent if contracts are well-designed and managed. If a dispute cannot be speedily resolved informally, it is important that it is promptly dealt with through a formal dispute resolution process.⁴⁴² The Department should ensure that it has procedures in place to ensure that disputes are addressed quickly and at the appropriate level in each organisation.

⁴³⁸ Australian National Audit Office, *Developing and Managing Contracts – Better Practice Guide*, Canberra, Government of Australia, 2012. pp.84-85.

⁴³⁹ Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, p.85.

⁴⁴⁰ Department of Corrections (New Zealand), *Media Release - Corrections step in at MECF*, 24 July 2015, http://www.corrections.govt.nz/news/media-releases/2015_media_releases/corrections_steps_in_at_mount_eden.html, accessed 22 September 2015.

⁴⁴¹ Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, p.20.

⁴⁴² Partnerships Victoria, *Guidance Material - Contract Management Guide*, 2003, p.66.

8.7.5 Engaging with the not-for-profit sector

As discussed in Section 8.5.1, the ERA envisages that, under the commissioning model, the not-for-profit sector would continue to have an active role in directly contracting with the Department and partnering with the private sector to provide prison services.

Based on discussions with not-for-profit organisations, the ERA considers that there is scope for the Department to improve the way it contracts with the not-for-profit sector to ensure the terms of contracts do not unduly favour the Department at the expense of the not-for-profit service providers.

The Western Australian Government has sought to improve the way it collaborates with the not-for-profit community sector in recent years through a Partnership Forum and development of principles and behaviours.⁴⁴³ The foundation knowledge developed through this initiative can help to guide greater collaboration between the Department of Corrective Services and not-for-profit agencies. The ERA recommends that the Department ensure that its interactions and contractual arrangements with the not-for-profit sector are consistent with the Partnership principles and behaviours.

8.7.6 Engaging with local Aboriginal organisations

The ERA agrees with stakeholders such as KALACC and ALSWA that it is important for the Department to engage with Aboriginal organisations that are capable of delivering services within the prison system.

As discussed in Section 8.2.8, the Department has prioritised its engagement with Aboriginal organisations in the area of youth justice services, reflecting that 69 per cent of offenders in custody in the youth justice system are of Aboriginal descent.⁴⁴⁴ The Department intends to assess the effectiveness of co-designing programs with Aboriginal organisations and funding from the Youth Innovation Fund before extending similar initiatives to adult corrective services.

The ERA considers the Department's decision to prioritise its engagement with Aboriginal organisations in the area of youth justice services to be appropriate, but has sought to reinforce this by recommending in this Final Report that the Department consider the appropriateness of co-designing programs for adult custodial services with Aboriginal organisations and providing these organisations with funding assistance, after assessing the effectiveness of similar interactions for youth justice services.

The ERA also agrees with stakeholders that ideally, Aboriginal organisations should be involved in designing and delivering programs to Aboriginal people. As noted in Section 8.2.8 the ERA is reluctant to recommend that the Department apply preferential tendering for such organisations because the Department needs to maintain the flexibility to select the best candidate to deliver services. However, the ERA does recommend that the Department should draw upon the knowledge and experience of existing Aboriginal service providers and its Aboriginal Cultural Advisor to review and develop criteria for assessing the capacity of organisations to deliver culturally appropriate programs for Aboriginal people.

⁴⁴³ The mission of the Partnership Forum is to bring together leaders from State Government agencies and the not-for-profit community sector to improve outcomes for all Western Australians through a genuine partnership in the policy, planning and delivery of community services in Western Australia. Source: Department of the Premier and Cabinet, 2014, Partnership Forum, accessed from <http://www.partnershipforum.dpc.wa.gov.au/Pages/Default.aspx>

⁴⁴⁴ Department of Corrective Services, *Quick Reference Statistics May 2015, Young people in detention*, Perth, Government of Western Australia, 2015, p. 2.

8.8 Recommendations

The ERA recommends that:

- 39) The Department of Corrective Services improve competition in the Western Australian prison system by introducing a commissioning model that:
 - a) Establishes a Commissioning Division as a central departmental division responsible for running commissioning processes, which includes developing tender documents, running tenders and determining tender winners.
 - b) Establishes a Service Delivery Division that includes a central tendering unit and prisons operated by the public sector. The central tendering unit is responsible for liaising with Superintendents to develop public sector responses to commissioning processes.
 - c) Ring-fences the Service Delivery Division from the remainder of the Department in a manner that prevents information about commissioning processes being shared by the Department with the Service Delivery Division.
 - d) Uses a probity auditor to monitor each commissioning process. Following the conclusion of each commissioning process, the auditor is to publish a report on the probity of the process followed.
- 40) The Department of Corrective Services ensure that its interactions and contractual arrangements with the not-for-profit sector are consistent with the principles and behaviours developed by the Partnership Forum.
- 41) The Department of Corrective Services consider the appropriateness of co-designing programs for adult custodial services with Aboriginal organisations and providing these organisations with funding assistance after assessing the effectiveness of similar interactions for youth justice services.
- 42) The Department of Corrective Services review and develop criteria for assessing the capacity of organisations to deliver culturally appropriate programs for Aboriginal people in consultation with existing Aboriginal service providers.
- 43) The Department of Corrective Services review its contract management capacity and processes to ensure that it is able to manage increased contract management responsibilities associated with the introduction of a commissioning approach.
- 44) The Department of Corrective Services publish a timeline, no later than six months following the conclusion of this Inquiry that sets out the scope, milestones, sequencing and timeframes for implementing each of the recommendations in this Final Report.

Appendix 1 Terms of Reference

I, Dr Michael Dennis Nahan, Treasurer, following consultation with the Minister for Corrective Services, and pursuant to Section 38 (1) of the *Economic Regulation Authority Act 2003*, request that the Economic Regulation Authority (the Authority) undertake an inquiry into options to improve the efficiency and performance of public and private prisons.

The advice provided by the Authority will be based upon economic, market and regulatory principles and will include advice on the design of appropriate performance standards, incentives and performance monitoring processes for the prisons system.

In conducting this inquiry, the Authority will:

- draw upon new and existing costing models of prison services belonging to the Department of Corrective Services;
- ensure that its findings are informed by other State Government reform processes related to the prisons system;
- review current administration and performance management practices of public and private prisons in Western Australia (WA); and
- survey inter-State and international experience and literature on the efficient performance management of prisons.

A key deliverable of the inquiry will be the development and calculation of a set of benchmarks to allow comparisons of the performance of individual prisons in WA. The DCS would use the benchmarks to identify areas in which the performance of individual prisons could be improved. In developing these benchmarks, the Authority will:

- take into account different categories of prisons and any other significant operational differences and the implications these will have for the cost of service provision;
- consider the need for the DCS to be able to update and report on the benchmark on a regular basis;
- prepare a stand-alone document explaining how benchmarks have been calculated; and
- seek to identify ways the DCS could use the benchmark information to improve the performance of the prison system.

The Authority will release an issues paper as soon as possible after receiving the Terms of Reference (ToR). The paper is to facilitate public consultation on the basis of invitations for initial written submissions from State and Local Governments, the not-for-profit sector, industry and other relevant stakeholder groups, including the general community.

The Authority will release a draft report including recommendations for further public consultation.

The Authority will complete a final report, including recommendations, no later than one year after receiving the ToR.

**HON DR. MICHAEL DENNIS NAHAN MLA
TREASURER; MINISTER FOR ENERGY; CITIZENSHIP AND MULTICULTURAL
INTERESTS**

Appendix 2 Summary of Recommendations

Chapter 5: Consistent standards across the prison system

The ERA recommends that:

- 1) The Department of Corrective Services introduce Service Level Agreements to all public prisons and make these agreements publicly available through its website.
- 2) The Department of Corrective Services be required to report annually to Parliament on the performance of each prison in Western Australia against the standards set out in the relevant Service Level Agreement.
- 3) The Department of Corrective Services undertake a program of service specification and costing for the prison system.
- 4) The Department of Corrective Services introduce performance incentives for Superintendents of public sector prisons.
- 5) The Department of Corrective Services introduce fixed term contracts for Superintendents that align with the term of the Service Level Agreement applied to the prison they are responsible for managing.
- 6) The Department of Corrective Services undertake a rigorous cost-benefit analysis of prison industries. The Department should only continue these industries where it can be demonstrated that the benefits outweigh the costs and the net benefits exceed those of alternative activities.
- 7) The Department of Corrective Services introduce a revenue sharing arrangement to allow Superintendents to retain a proportion of additional revenues generated by efficiency improvements from industries in their prison for use on specified activities within their prison.

Chapter 6: Performance benchmarks

The ERA recommends that:

- 8) The Department of Corrective Services uses a weighted scorecard approach to benchmark prison performance.
- 9) The Department of Corrective Services measure prison performance in the categories of safety and security, rehabilitation, prisoner quality of life and prison management using the performance measures detailed in Table 17 of this report and in the Prison Benchmarking Manual, and report publicly on these measures.
- 10) The Department of Corrective Services review the incentives resulting from the weighted scorecard two years after implementation and introduce new incentives if appropriate.
- 11) The Department of Corrective Services expand the indicators reported in its corporate scorecard to include the performance measures listed in Table 21 of this report and in the Prison Benchmarking Manual, and report publicly on these measures.
- 12) The Department of Corrective Services compile the management information measures detailed in Table 23 of this report and in the Prison Benchmarking Manual, and report publicly on these measures.
- 13) The Department of Corrective Services implement data collection processes to allow for the measurement of prison and corporate performance measures, and for management information measures, where data is not currently available.
- 14) The Department of Corrective Services regularly audit each prison's service capacity and its staffing levels to ensure that services and staffing capacity remain consistent with the prison's design capacity.

- 15) The Department of Corrective Services report utilisation rates based on design capacity for each prison, and for the prison system as a whole.
- 16) The Department of Corrective Services apply and report on compliance with the checklist for assessing standards, objectives, and training processes for interactions between staff and prisoners provided in this report, as applied to each prison.

Chapter 7: Effective planning, processes, and use of information

Infrastructure planning

The ERA recommends that:

- 17) The Department of Corrective Services adopts the micro-simulation model as the primary prisoner population projection model for the Western Australian Government, after an appropriate trial period agreed with the Department of Treasury.
- 18) The Department of Treasury establish a standing cross-agency governance committee to inform the inputs and choice of scenarios for the micro-simulation model, and reconvene the committee on a regular basis to provide guidance on policy or major demographic changes.
- 19) The Department of Corrective Services use the micro-simulation model to provide ongoing feedback to the Minister and Cabinet on the effects of any proposed policy change on prisoner population forecasts, including an assessment of the relative effects of alternative policies.
- 20) The Department of Corrective Services publish information about the underlying assumptions, inputs, methodology, and outputs of each of its models, as well as information about the variance between forecast and actual values.
- 21) The Department of Corrective Services conduct a logic mapping exercise to identify a long-term plan for the prison estate, and publish the plan on its website.
- 22) The Department of Corrective Services engage key stakeholders more in the development and prioritisation of capital expenditure decisions.
- 23) The Department of Corrective Services place a greater focus on the women's prison estate. In particular, the infrastructure needs of the women's estate should be a high priority for the women's estate steering committee.

Managing and using information for good decision-making

The ERA recommends that:

- 24) The Department of Corrective Services review the way it currently allocates prisoners to programs (including requirements such as a 6 month minimum stay to receive assessment), and improve this process to optimise the number of prisoners receiving programs.
- 25) The Department of Corrective Services review the type and timing of programs currently delivered to ensure they adequately address prisoners' practical needs for education and life skills, and capitalise on opportunities to deliver short-course programs to prisoners on remand.
- 26) The Department of Corrective Services develop a module for the Total Offender Management System to improve monitoring of prisoner risks and needs to support early intervention.
- 27) The Department of Corrective Services require all major operational and strategic proposals to incorporate relevant analytical findings, including an assessment of how the proposal is likely to affect prisoner outcomes, before a decision is made and approved.

- 28) The Department of Corrective Services partner with the Department of Health's cross-sector Data Linkage WA project to obtain information about prisoner outcomes beyond the prison system.
- 29) The Department of Corrective Services establish a research partnership framework to actively seek out and engage in projects with universities, to gain a deeper understanding of specific issues within the prison system.
- 30) The Department of Corrective Services prioritise the review of internal controls raised in its strategic plan.
- 31) The Department of Corrective Services publish its planned actions and timeline for resolving outstanding issues raised by the Auditor General, the Inspector of Custodial Services, and any other relevant Government bodies, incorporate these into its current reform process, and report on its progress against this plan in its annual report.
- 32) The Department of Corrective Services consult with the Office of State Records in developing a plan to improve the management of the Department's existing records.

Information sharing and transparency

The ERA recommends that:

- 33) The Department of Corrective Services build a Total Offender Management System module to provide post-release service providers with secure access to case management information.
- 34) The Department of Corrective Services establish a mechanism to report to post-release service providers on the efficacy of their post-release services.
- 35) The Department of Corrective Services identify individual datasets that are of acceptable quality and commence publishing these as soon as feasible.
- 36) The Department of Corrective Services adopt a policy of publishing its operational and financial data by default, wherever there is no compelling technical or confidentiality reason not to do so.
- 37) The Department improve publication and disclosure practices as necessary to meet the standards detailed under Western Australia's *Whole of Government Open Data Policy*.
- 38) The Department of Corrective Services review options for implementing best-practice data publication through publication of data on its own website, and through the use of the forthcoming whole-of-government portal.

Chapter 8: Introducing greater competition to the prison system

The ERA recommends that:

- 39) The Department of Corrective Services improve competition in the Western Australian prison system by introducing a commissioning model that:
 - a) Establishes a Commissioning Division as a central departmental division responsible for running commissioning processes, which includes developing tender documents, running tenders and determining tender winners.
 - b) Establishes a Service Delivery Division that includes a central tendering unit and prisons operated by the public sector. The central tendering unit is responsible for liaising with Superintendents to develop public sector responses to commissioning processes.
 - c) Ring-fences the Service Delivery Division from the remainder of the Department in a manner that prevents information about commissioning processes being shared by the Department with the Service Delivery Division.

- d) Uses a probity auditor to monitor each commissioning process. Following the conclusion of each commissioning process, the auditor is to publish a report on the probity of the process followed.
- 40) The Department of Corrective Services ensure that its interactions and contractual arrangements with the not-for-profit sector are consistent with the principles and behaviours developed by the Partnership Forum.
- 41) The Department of Corrective Services consider the appropriateness of co-designing programs for adult custodial services with Aboriginal organisations and providing these organisations with funding assistance after assessing the effectiveness of similar interactions for youth justice services.
- 42) The Department of Corrective Services review and develop criteria for assessing the capacity of organisations to deliver culturally appropriate programs for Aboriginal people in consultation with existing Aboriginal service providers.
- 43) The Department of Corrective Services review its contract management capacity and processes to ensure that it is able to manage increased contract management responsibilities associated with the introduction of a commissioning approach.
- 44) The Department of Corrective Services publish a timeline, no later than six months following the conclusion of this Inquiry that sets out the scope, milestones, sequencing and timeframes for implementing each of the recommendations in this Final Report.

Appendix 3 Calculating cost per prisoner per day

To determine cost per prisoner per day for Western Australian Government reporting purposes, the Department uses:

- *10 direct on-site cost categories*: costs that are directly attributable to a single facility (for example, salaries paid to employees at a specific prison);
- *5 allocated on-site cost categories*: costs that directly relate to activities carried out in prisons, but are not directly attributable to a single facility (for example, the cost of insuring the State's prisons); and
- *18 allocated off-site cost categories*: overhead costs that relate to the wider operation of Department, rather than specific prisons (for example, head office costs). The majority of health and program delivery costs currently fall into this category, as the Department tends to classify both costs and staff in these areas as units that are independent of prisons.

These cost elements are shown in Table 29.

Table 29 Cost categories used to calculate cost per prisoner per day

Direct On-Site Costs	Allocated On-Site Costs	Allocated Off-Site Costs
Salaries, wages & allowances (prison staff)	Depreciation (buildings)	Prison industries costs
Superannuation	Depreciation (other)	Programs (overhead)
Performance Centre Maintenance	Insurance	Resources received free of charge
Other staff costs	Prisoner transport	Grants & subsidies
External services (Serco)	IT costs (including DoTAG)	Welfare provider costs
External services (other)		Health services
Goods & supplies		Centre medical records
Performance Centre health services		Salaries, wages & allowances (overhead)
Performance Centre programs		Superannuation (overhead)
Aboriginal Visitor Service		Maintenance (overhead)
		Other staff costs (overhead)
		External services (overhead)
		Goods and supplies (overhead)
		Other expenses (overhead)
		Fringe Benefits Tax
		Gatehouse costs
		Contracted services (Director)
		TOMS costs

Source: DCS cost modelling.

For costs that it does not attribute directly to individual prisons, the Department uses a range of methods to allocate costs on a per prison basis. These allocations are intended to approximate the proportion of resources used by each prison.

Generally, the Department's methodology allocates costs based on Daily Average Population, Daily Average Public Population (that is, the Daily Average Population excluding the population of private prisons), or the number of Full-Time Employees engaged by a prison, depending on which of these factors is the major driver for a given cost. The driver used to allocate the cost detailed in Table 29 are shown in Table 30 below.

Table 30 Allocated cost categories by basis of cost attribution

Daily Average Population	Daily Average Public Population	No. of Full-Time Prison Employees
Health services (overhead) ⁴⁴⁵	Prison industries costs	Insurance
Centre medical records	Programs (overhead)	IT costs (including DoTAG)
Contracted services (Director)	Grants & subsidies	Resources received free of charge
TOMS costs	Welfare provider costs	Salaries, wages & allowances (overhead)
	External services (overhead)	Superannuation (overhead)
	Goods and supplies (overhead)	Other staff costs (overhead)
	Other expenses (overhead)	Fringe Benefits Tax

Source: DCS cost modelling.

Additionally, a number of costs are allocated using other methods that the Department considers a better reflection of the use of those resources. Transport costs are based on the number of prisoner movements from the originating prison (resulting in a spike in Broome's cost per prisoner per day in 2014/13, capturing the cost of moving prisoners to the recently opened West Kimberley prison). Overhead depreciation costs are allocated on the proportion of accounting depreciation directly attributable to each prison. Finally, additional costs incurred in operating the Hakea and Casuarina gatehouses are split equally between those two prisons.

While the Department's approach appears broadly reasonable for most costs, reasonable, there are opportunities for improvement. In particular, the ERA considers the Department could better allocate costs associated with prisoner intake (for example, reception and initial health costs⁴⁴⁶) by the number of receptions at each facility during the year, rather than by daily average population.

Department staff have also provided examples of potential improvements, including:

- allocation of program costs by sentenced Daily Average Population (as only sentenced prisoners are eligible for participation in programs);
- allocation of IT costs by number of logins;
- allocation of the cost of prisoner assessments at Hakea (that is, assessments to determine placement and program participation) to Acacia and Wandoo, for prisoners transferred to those facilities; and
- statement of capital costs per prisoner per day as a separate metric, rather than included in the main cost per prisoner per day figure.⁴⁴⁷

While cost allocations should be allocated based on the most accurate driver for which data is reasonably available, and should not be constrained by 'the way things have always been done', both the ERA and Department staff note that any change will also have consequences for historical cost calculations.

⁴⁴⁵ The Department's approach to the allocation of health services and centre medical records costs changed in 2013/14 to attribute a portion to private prisons. In prior years these costs had been allocated based on Daily Average Public Population. The ERA's cost modelling used for this report has adjusted prior year costs to use Daily Average Population for all years modelled.

⁴⁴⁶ Since the majority of health costs are incurred in the first 72 hours of each reception.

⁴⁴⁷ Communication with the Department of Corrective Services, 21 August 2015.

Report on Government Services methodology

There are a number of material differences between the cost per prisoner per day calculation used by the Department to report to Government, and the calculation used to provide a figure for the *Report on Government Services*.

The major differences are that the *Report on Government Services* figure, unlike the State figure:

- is net of prison revenue;
- excludes transport costs;
- includes prisoner gratuities; and
- includes cost of capital and debt servicing fees in addition to depreciation, and reports each of these components separately on a per prisoner per day basis, as well as incorporating them in the final cost per prisoner per day figure.

These differences generally result in the *Report on Government Services* figure for Western Australia being slightly lower than the State figure, since transport is a significant cost for the Department.

Detailed tables

The tables below provide supplementary detail on daily average prison population and cost per prisoner per day over the period 2010-11 to 2013-14. These figures are calculated by using the method adopted by the Department for State reporting, exclusive of any costs and prisoners allocated to work camps.

Table 31 Daily average prison population (2010-11 to 2013-14)

	2010-11	2011-12	2012-13	2013-14
Acacia	991	996	993	991
Wandoo	-	-	17	48
Albany	304	308	304	303
Bandyup	232	239	279	274
Boronia	78	79	80	79
Broome	91	101	85	35
Bunbury	334	330	324	327
Casuarina	578	625	622	661
Eastern Goldfields	96	114	86	82
Greenough	290	282	284	299
Hakea	758	830	881	870
Karnet	235	252	318	309
Pardelup	73	81	77	73
Roebourne	168	153	149	153
Wooroloo	345	352	334	339
West Kimberley	-	-	52	125

Source: DCS cost modelling.

Table 32 Total costs per prison 2010-11 to 2013-14 (\$, real 2014-15)

	2010-11	2011-12	2012-13	2013-14
Acacia	66,053,766	68,552,885	64,476,081	68,892,607
Wandoo	-	-	11,600,946	13,024,774
Albany	35,046,474	36,552,160	39,976,116	39,631,389
Bandyup	33,027,338	34,582,402	37,100,929	37,806,295
Boronia	9,481,104	9,938,923	8,286,392	9,518,619

Broome	22,759,534	23,758,310	21,591,196	18,257,266
Bunbury	36,455,588	36,937,865	39,728,317	39,106,204
Casuarina	79,929,574	85,250,912	80,989,952	86,591,732
Eastern Goldfields	1,231,844	18,031,127	18,995,237	19,808,871
Greenough	34,381,670	35,129,041	36,574,990	38,276,234
Hakea	84,266,658	89,244,497	92,190,042	96,935,610
Karnet	30,907,576	33,142,342	37,444,821	37,889,040
Pardelup	8,631,227	9,283,420	9,415,931	9,310,513
Roebourne	30,711,867	33,620,087	32,011,635	31,932,173
Wooroloo	31,046,879	33,431,685	32,794,982	32,937,088
West Kimberley	-	-	27,971,821	35,407,032

Source: DCS and ERA cost modelling.

Table 33 Cost per prisoner per day (2010-11 to 2013-14) (\$, real 2014-15)

	2010-11	2011-12	2012-13	2013-14
Acacia	\$183	\$188	\$178	\$190
Wandoo	-	-	\$1,847	\$737
Albany	\$316	\$324	\$360	\$358
Bandyup	\$390	\$395	\$364	\$378
Boronia	\$335	\$344	\$284	\$328
Broome	\$682	\$643	\$698	\$1,450
Bunbury	\$299	\$306	\$336	\$327
Casuarina	\$379	\$373	\$356	\$359
Eastern Goldfields	\$35	\$432	\$605	\$660
Greenough	\$325	\$340	\$352	\$351
Hakea	\$304	\$294	\$287	\$305
Karnet	\$361	\$359	\$323	\$336
Pardelup	\$323	\$313	\$335	\$348
Roebourne	\$500	\$600	\$587	\$570
Wooroloo	\$246	\$259	\$269	\$266
West Kimberley	-	-	\$1,465	\$776

Source: DCS and ERA cost modelling.

Table 34 Real year on year change cost per prisoner per day (2010-11 to 2013-14)

	2011-12	2012-13	2013-14
Acacia	3%	-5%	7%
Wandoo	-	-	-60%
Albany	3%	11%	0%
Bandyup	1%	-8%	4%
Boronia	3%	-17%	15%
Broome	-6%	9%	108%
Bunbury	2%	10%	-3%
Casuarina	-2%	-4%	1%
Eastern Goldfields	-	40%	9%
Greenough	5%	3%	-
Hakea	-3%	-2%	6%
Karnet	-	-10%	4%
Pardelup	-3%	7%	4%
Roebourne	20%	-2%	-3%
Wooroloo	5%	4%	-1%
West Kimberley	-	-	-47%

Source: DCS and ERA cost modelling.

Table 35 On-site salaries, wages, and allowances cost per prisoner per day (2010-11 to 2013-14) (\$, real 2014-15)

	2010-11	2011-12	2012-13	2013-14
Acacia	\$1	\$2	\$1	\$2
Wandoo	-	-	\$86	\$16
Albany	\$132	\$132	\$147	\$145
Bandyup	\$144	\$142	\$137	\$147
Boronia	\$126	\$130	\$135	\$137
Broome	\$234	\$209	\$244	\$428
Bunbury	\$120	\$118	\$122	\$121
Casuarina	\$132	\$132	\$145	\$143
Eastern Goldfields	\$15	\$156	\$212	\$220
Greenough	\$120	\$125	\$139	\$136
Hakea	\$111	\$105	\$111	\$116
Karnet	\$122	\$120	\$110	\$115
Pardelup	\$120	\$110	\$127	\$132
Roebourne	\$150	\$176	\$180	\$176
Wooroloo	\$97	\$101	\$109	\$111
West Kimberley	-	-	\$450	\$260

Source: DCS and ERA cost modelling.

Table 36 Allocated transport cost per prisoner per day (2010-11 to 2013-14) (\$, real 2014-15)

	2010-11	2011-12	2012-13	2013-14
Acacia	\$11	\$13	\$6	\$5
Wandoo	-	-	-	-
Albany	\$11	\$12	\$28	\$22
Bandyup	\$32	\$36	\$17	\$16
Boronia	\$11	\$12	-	-
Broome	\$128	\$132	\$131	\$451
Bunbury	\$12	\$14	\$37	\$29
Casuarina	\$36	\$37	\$10	\$11
Eastern Goldfields	\$5	\$69	\$123	\$156
Greenough	\$44	\$52	\$29	\$32
Hakea	\$22	\$24	\$17	\$16
Karnet	\$3	\$3	-	\$3
Pardelup	\$4	\$4	\$4	\$5
Roebourne	\$74	\$92	\$62	\$61
Wooroloo	\$2	\$2	\$1	\$1
West Kimberley	-	-	\$11	\$15

Source: DCS and ERA cost modelling.

Appendix 4 Supplementary information to Chapter 7

Appendix 4 provides additional information in support of Chapter 7, including a description of:

- processes of the State Government and the Department to plan infrastructure;
- models used to forecast the prison population;
- how the administrative systems of the Department have developed overtime; and
- key administrative issues of the Department identified in financial audits.

A4.1 Overview of State Government and Departmental infrastructure planning processes

A4.1.1 State Government processes and requirements

There are a series of strong institutional and governance arrangements and processes in place in Western Australia to guide the provision and delivery of public infrastructure.

Oversight of State agencies' annual strategic asset planning cycle is the responsibility of the Department of Treasury, which has developed the Strategic Asset Management Framework (**SAMF**). The objective of the framework is to ensure the Government receives quality information to make sound investment decisions.

The framework provides policies and guidelines to improve asset investment planning and management across the State public sector. The Department of Treasury applies the SAMF policies and standards when reviewing an agency's Strategic Asset Plan and business cases each year in preparation for the State budget.⁴⁴⁸

A Strategic Asset Plan is a corporate planning process to ensure agencies communicate with Government the relationship between demand, existing assets and new infrastructure priorities. Strategic asset planning requires a thorough understanding of the condition of the existing assets and the most cost-effective mix of maintenance and asset renewal as a pre-condition to further asset investment.

Strategic Asset Plans play a central role in generating the business cases for individual project evaluation. Business cases articulate the proposed infrastructure investment decision and its costs and benefits relative to other options through a cost-benefit analysis. Cost-benefit analysis aims to determine the highest possible net benefit to the community from the provision of public infrastructure in aggregate.

The Cabinet requires that project proposals be compliant with the Strategic Asset Management Framework before funding is considered.⁴⁴⁹

⁴⁴⁸ Department of Treasury, *Strategic Asset Management Framework*, Perth, Government of Western Australia, 2015.

⁴⁴⁹ "The financial implications of Cabinet proposals must be evaluated by the Department of Treasury prior to the submission being lodged for Cabinet consideration. If the submission includes an asset investment proposal, the Department of Treasury must be consulted as to whether the proposal complies with the SAMF. Cabinet Secretariat may not accept Cabinet submissions without this verification." Source: Department of Premier and Cabinet, *Cabinet Handbook*, Perth, Government of Western Australia, 2013, p.26.

A4.1.2 The Department of Corrective Services' current approach to infrastructure planning

The ERA has discussed the Department's approach to infrastructure planning with both staff and the Department's lead architect, and has examined various architectural planning documents that have been developed, as well as the Department's 2015-2018 Strategic Plan.

The Strategic Plan is the current iteration of the Department's key planning document, and sets a goal of 'developing and maintaining models that optimise infrastructure in the future'. To meet this goal, the Department plans to develop a strategic asset framework that 'encompasses the current requirements and projects of the prison system, and informs future asset requirements'.⁴⁵⁰

The plan also includes the development of a capital works program to meet the projected growth of the prison population, setting out a range of specific future actions including:

- updating strategic asset plans annually to address the needs of specific prisoner cohorts, and to inform future asset requirements;
- maintaining a balanced budget using innovation, cost management, and resourcing initiatives; and
- developing short, medium and long-term options to address population pressures in the women's estate.

The Department also has a Strategic Asset Plan that aims to identify and prioritise infrastructure requirements. In order for an infrastructure project to be included in this plan, a business need must be demonstrated, and a business case compiled – processes that are a key part of best practice planning. The ERA has examined the Strategic Asset Plan, and a number of business cases. The Strategic Asset Plan covers building and maintenance programs, and does appear to align these with business demand and operational risks.

Similarly, business cases developed by the Department appear to be appropriate and relevant. They follow a consistent format and include information on business need, strategic justification, gap and options analyses, applicability to Government policy, investment proposal, options and associated cost-benefit analysis, and implementation issues. Consequently, ERA considers the Department follows good process in developing business cases to support its Strategic Plan.

The Department has also commenced long-term planning to map out infrastructure priorities for 2016 to 2024. The ERA understands the Department intends to base this long-term plan on the micro-simulation model discussed in Section A4.2 of this appendix, and in Chapter 7.

Finally, ERA understands the Department has detailed master plans for most major prison sites, and that these plans are designed to maximise flexibility and allow for a range of building options in the future. This flexibility is important, as it enables the prison system to adapt to future demographic and policy changes.

Based on the above evidence, ERA considers that some of the Department's planning processes are appropriate in principle. That said, many of these planning processes have only been initiated during the past year as part of the Department's reform process, and are still being developed. Consequently, it may be some time before the benefits are fully realised.

⁴⁵⁰ Department of Corrective Services, *Creating Value Through Performance: Strategic Plan 2015 - 2018*. Perth, Government of Western Australia, 2015, p.5.

A4.2 Prison population modelling

The Department currently uses a regression model to forecast Western Australia's likely future prison population.

Regression models make predictions about what will happen in the future, based on what has happened in the past.. They rely on past trends, and so incorporate the effects of policy changes on prisoner numbers over time.

The ERA considers that the model has been accurate, at least in part, because justice policy decisions have progressively become 'tougher on crime'. For example, the underlying data used to generate forecasts incorporates the historical effects of policies such as the 'truth-in-sentencing' amendments, mandatory sentencing, and the three-strike law for breaches of community-based orders.

These policies have had the effect of increasing the number of people in prison, and so the model's outcomes are based on an implicit assumption that this trend will continue at the same rate. The model is unlikely to continue to be accurate if there is a reversal in policy direction (or a change in the rate of policy change).

Models of this kind do not have the capacity to determine the *reasons* for changes in the prison population. Hence, the regression model is not well suited to modelling hypothetical scenarios that the Department can use to inform Ministers about the likely effects of proposed policy changes on prisoner numbers and costs.

Department of Treasury is in the process of building a new micro-simulation model to project the likely future prisoner population using an approach that addresses these shortcomings.

The micro-simulation model is based on a more advanced technique that has been used increasingly in recent years to help plan for the future needs for Government services.⁴⁵¹ It is similar to a model previously used by the Department in the mid-2000s. This model was not maintained because staff members with the necessary expertise left the agency and were not replaced.⁴⁵² This model was generally well-regarded internationally, as an example of good prison population forecasting practice.⁴⁵³

Micro-simulation models operate quite differently to regression models, and consider how a system works in a greater level of detail to understand how it may respond to change.

The micro-simulation model begins with current data about the prison population, and identification of a set of factors that may change over time (for example, the average stay of different kinds of prisoner, and the number of arrivals of different kinds of prisoner including a breakdown by age, gender, and security classification). It then incorporates the probability of various changes in these factors (for example, recidivism rates, and the number of offenders on early release orders).

⁴⁵¹ For example, Stewart *et al* note that '[t]he development of such models allows for the simulation of proposed practice, policy, and legislative changes which provides decision-makers with information pertaining to the short-term and long-term consequences of any proposed changes.' (Stewart, A, N Spencer, I O'Connor, G Palk, M Livingston, & T Allard, *Juvenile Justice Simulation Model: A Report on the Australian Research Council Strategic Partnerships with Industry Research and Training*, Brisbane, Griffith University, 2004, p. 2.)

⁴⁵² The fact that the micro-simulation model is inherently more complex than the existing model used by the Department of Corrective Services will pose some challenges. However, these are not insurmountable. An outline of these anticipated challenges and some recommendations for managing them are provided below, and in Chapter 7.

⁴⁵³ Stewart, A, N Spencer, I O'Connor, G Palk, M Livingston, & T Allard, *Juvenile Justice Simulation Model: A Report on the Australian Research Council Strategic Partnerships with Industry Research and Training*, Brisbane, Griffith University, 2004, pp. 14-15; Harries, R, *Criminal Justice Modelling*. London, Home Office Strategy Policy Team, 2000, pp. 5-7.

The model then runs a Monte Carlo Simulation (effectively, a large number of simulations using the same base assumptions, randomly making a different selection from the distributions used in each simulation). This returns a range of possible outcomes for the same set of assumptions, reflecting the inherent uncertainty in the factors affecting the prison population. The distributions used by the model are derived from known information. For example, the modelled sentence a prisoner serves is sampled from the observed pattern of sentences for their offence category.

The micro-simulation model incorporates a more sophisticated understanding of how the justice system works and what changes in the system are likely to mean for the prison population. It expands the current modelling functions available to the Department, providing:

- the capacity to perform detailed modelling of multiple scenarios to assist decision-makers to understand the effects of alternative policy options or operational changes;
- the capacity for analysis based on changing demographic factors – the composition of the prison system in terms of, say, age, gender, or race; and
- the potential to expand the model to assess possible changes in the justice and human services systems. For example, the model could be used to assess the likely outcomes from changes in policing efficiency, or in the availability of secure mental health facility beds.

The ERA considers that these benefits are significant and will improve the Department's ability to understand its operations on a more detailed level, and to provide better analysis to Government. It is clearly the more useful model for informing strategic decisions and policy, a core function needed for making evidence-based plans.

As noted in Chapter 7, there are a number of implementation issues associated with the adoption of a new model.

- *Agreeing upon inputs and forecast scenarios* – The ERA considers that it is essential that various organisations within the justice sector participate in determining the inputs of the model and the scenarios that are run. The Department of Treasury has proposed to do this by establishing a cross-agency Governance Committee.⁴⁵⁴
- *Ensuring ongoing data quality* – It is important for the Department to continue to work with the Department of Treasury to review the data needs of the new model and, where the current data is inadequate, to improve this.⁴⁵⁵ Additionally, models become less useful when the inputs become outdated, as they fail to reflect the system accurately. This can be overcome by automating the process as much as

⁴⁵⁴ This Governance Committee would incorporate representatives from the Department of the Attorney General, Western Australian Police, Department of Corrective Services, and other departments with knowledge of the drivers of the prison population. The Committee would also provide guidance as to the effect of policy changes on the prison population. The ERA supports this approach, and notes that research on prison population modelling generally endorses the involvement of a panel. For instance, Stewart, A, N Spencer, I O'Connor, G Palk, M Livingston, & T Allard, *Juvenile Justice Simulation Model: A Report on the Australian Research Council Strategic Partnerships with Industry Research and Training*, Brisbane, Griffith University, 2004, p.18; Harries, R, *Criminal Justice Modelling*. London, Home Office Strategy Policy Team, 2000, pp. 52-53.

⁴⁵⁵ The Department can also take this as an opportunity to reassess the input data used in its current regression model, and identify any potential improvements.

possible.⁴⁵⁶ This may involve developing a way for data from the Total Offender Management System to be imported into the model with minimal user intervention.⁴⁵⁷

- *Ensuring integrity and accountability* – It is important to ensure that the Department is accountable for the way in which it forecasts, as this process drives important investment and expenditure decisions. This can be achieved by publishing information about the Department’s models so that it can be understood and challenged by external stakeholders.⁴⁵⁸ The Department should publish, at a minimum, the following information about each of its models:
 - The inputs used for the baseline and scenario forecasts.
 - An explanation of scenarios considered.
 - An explanation of the model’s methodology.
 - Annual updates of forecasts.
 - Annual outcomes against forecasts, with an assessment of what caused variances.

This disclosure also assists the public in holding Government accountable for justice policies, as it informs readers as to where variances between forecasts and actual figures have been driven by a policy decision.

A4.3 The development of the Department’s current administrative systems

When the Department of Justice was split, the new Department of the Attorney General retained control of the administrative and financial systems used to manage the Department of Corrective Services. This resulted in a situation where the Department had little control over its human resources and finance system.

The Department of the Attorney General continues to be responsible for most of the administrative and financial systems of the Department. This arrangement is unsuitable and hinders the ability of the Department to manage its financial position.

In 2013 a commissioned report by Nous Group presented a range of recommendations to Government on how to address problems with the shared systems of the Department of the Attorney General and the Department of Corrective Services. Ultimately, the decision was made to separate the systems of the two Departments.

⁴⁵⁶ For example, Stewart, A, N Spencer, I O’Connor, G Palk, M Livingston, & T Allard, *Juvenile Justice Simulation Model: A Report on the Australian Research Council Strategic Partnerships with Industry Research and Training*, Brisbane, Griffith University, 2004, p.21; Livingston, M, A Stewart, & G Palk, *A micro-simulation model of the juvenile justice system in Queensland*, Australian Institute of Criminology, Brisbane, 2006, p. 1268; Rhodes, W, *Models of the Criminal Justice System: A Review of Existing Impact Models*. Cambridge, Abt Associates Inc. for the US Department of Justice, 1990, p. 51.

⁴⁵⁷ Victorian Auditor-General, *Prison Capacity Planning*, Melbourne, Government of Victoria, 2012, pp. 34-35; *Review of forecasting the prison and probation populations*, National Statistics Quality Review (NSQR) Series, London, Office for National Statistics, 2002, p. 6.

⁴⁵⁸ That said, human input and insight is critical, and not all decision and processes can be automated. As discussed above, this should be provided by the Governance Committee on an ongoing basis. The right balance of automation and human review will help make sure the model remains a useful forecasting tool into the future.

The Department is now in the process of reforms to decommission the old shared systems and take independent control of its own administrative processes. The Department has informed the ERA that this process is planned to be completed by 30 June 2016.

A4.4 Key administrative issues identified during financial audits

The source of this information is correspondence between the Office of the Auditor General and the Department of Corrective Services, 'Findings identified during the interim audit', and 'Findings identified during the final audit' for the periods of audit ending 30 June 2009, 2010, 2011, 2012, 2013, and 2014. The findings of the interim audit for the year ended 30 June 2014 were summarised in the *Audit Result Report Annual 2013-14 Financial Audits*, published by the Office of the Auditor General in November 2014.⁴⁵⁹ In preparing this Final Report, the ERA has also noted the qualified audit opinions the Department received in 2014-15, in relation to its financial statements, and its internal controls.⁴⁶⁰

Table 37 Key administrative issues identified by the Auditor General

Issue	Concerns
Manual systems	The Department currently uses 'a manual system' – that is to say, spreadsheets - to process and record expenditures in prison facilities, and had poor controls over who could access and edit these spreadsheets. The Office of the Auditor General specifically noted that 'a staff member could change EFT payment details to their own personal account or process fictitious payments without detection'.
Approving payments	The Department keeps an 'incurring officer register' – that is, a list of employees who can approve payments – that has never been approved by any authority, and 'is out of date as it includes employees who no longer work to for the Department'. This means the Department is not compliant with its obligations under the <i>Financial Management Act 2006</i> and <i>Treasurer's Instructions</i> .
Use of credit cards	Of the 995 active purchasing cards (credit cards) used by the Department, a number had 'inappropriate credit limits'. The Office of the Auditor General gave an example of one card that had an \$800,000 credit limit, and noted that most cards did not have any limit for individual transactions. The Department has further indicated to the ERA that it has tended to rely on credit cards to make Departmental purchases, because of the difficulty of processing transactions through the Department of the Attorney General's systems. This, in combination with high credit card limits, makes it difficult for the Department to manage information about purchases, as the first indication that a significant expense has been incurred may only come when the purchase is billed to a card.

⁴⁵⁹ Office of the Auditor General, *Audit Results Report – Annual 2013-14 Financial Audits*, 2015, <https://audit.wa.gov.au/reports-and-publications/reports/audit-results-report-annual-2013-14-financial-audits/management-issues/> (accessed 30 June 2015).

⁴⁶⁰ Department of Corrective Services, *Annual Report 2014-15*, Perth, Government of Western Australia, 2015, p.61.

Asset register	<p>The Department has not maintained an up to date asset register. The Office of the Auditor General noted that ‘a number of items were only added to the asset register after they were discovered during the stocktake’ and that this was up to two years after the assets were acquired.</p>
Salary overpayments	<p>In 2009, the Office of the Auditor General advised that the Department of Corrective Services had not been providing the Department of the Attorney General (the administrator of payroll for the two Departments) with timely documentation when employees left the organisation.</p> <p>This resulted in many employees being overpaid, as payroll staff were not aware they had ceased employment.</p> <p>In a single 10 month period, the Office of the Auditor General found that there had been 250 salary overpayments with a value of over \$400,000.</p> <p>In each of the following three years, the Office of the Auditor General raised the same issue, finding overpayments of a similar magnitude. In fact, in 2010, in spite of the audit findings in the previous year, salary overpayment incidents in the period had increased to more than 400 incidents. Even in the Department’s most recent audit, the Office of the Auditor General has noted that over \$550,000 worth of historical overpayments have not yet been collected.</p>
Payroll certification	<p>In 2008, the Office of the Auditor General raised concerns about the Department’s payroll certification process – that is, the process by which managers sign off on the records of employees who have worked during the pay period, to confirm these are accurate before employees are paid. While the Department is required to certify 100 per cent of employees’ pays to comply with Government requirements (under <i>Treasurer’s Instruction 506(7)</i>) only 72 per cent of pays were certified during that year.</p> <p>The issue was raised again in 2009, and the Department responded by noting that over 95 per cent of pays had been certified during the period – a large improvement. However, on further investigation, less than half of those pays had been certified before the relevant employee was paid. The remainder were only signed off after payment had been made.</p> <p>The Office of the Auditor General continued to raise the problem in the subsequent years, and even in the Department’s most recent audit findings, noted that only 55 per cent of pays had been authorised within ‘a reasonable timeframe’. (The Department has now set a target of a certification completion rate of 85 per cent, which is less than the 100 per cent rate required by Government.)</p>

Appendix 5 Supplementary data tables

The ERA is aware that there is a general lack of public data regarding the operation of the prison system in Western Australia. As noted in Chapter 7, this is a problem that is common in most Australian jurisdictions.

Consequently, the ERA has provided a range of tables in this appendix containing data examined and used by the ERA in conducting this Inquiry, so as to assist readers in interpreting this Final Report.

This appendix includes data on:

- the composition of the prison population;
- prison staffing levels;
- prisoner employment and program participation;
- corporate and divisional performance indicators for the Department;
- the performance of individual public and private prisons; and
- prisoner transport movements and costs.

A5.1 Composition of the prison population

Table 38 Composition of prison populations as at June 2015

Prison	Maximum-security	Medium-security	Minimum-security	Remand	Sentenced	Male	Female	Aboriginal	Non-Aboriginal
Acacia	0%	94%	6%	0%	100%	100%	0%	37%	63%
Albany	14%	73%	13%	0%	100%	100%	0%	41%	59%
Bandyup	31%	54%	15%	38%	62%	0%	100%	48%	52%
Boronia	0%	0%	100%	0%	100%	0%	100%	24%	76%
Bunbury	2%	67%	32%	10%	90%	100%	0%	20%	80%
Casuarina	40%	49%	11%	30%	70%	100%	0%	30%	70%
E. Goldfields	9%	31%	61%	19%	81%	79%	21%	74%	26%
Greenough	2%	74%	24%	16%	84%	80%	20%	77%	23%
Hakea	84%	14%	2%	76%	24%	100%	0%	34%	66%
Karnet	0%	0%	100%	0%	100%	100%	0%	12%	88%
Pardelup	0%	0%	100%	0%	100%	100%	0%	14%	86%
Roebourne	2%	77%	21%	19%	81%	96%	4%	87%	13%
Wandoo	0%	0%	100%	0%	100%	100%	0%	22%	78%
West Kimberley	5%	59%	36%	10%	90%	88%	12%	93%	7%
Wooroloo	0%	0%	100%	0%	100%	100%	0%	19%	81%
All prisons	22%	52%	26%	22%	78%	91%	9%	38%	62%

Notes: Remand and sentenced population composition as at 31 March 2015.

Source: Department of Corrective Services.

Table 39 Prison population composition as at 30 June (2002 to 2015)

Period	Maximum-security	Medium-security	Minimum-security	Remand	Sentenced	Male	Female
2002	17%	51%	32%	17%	83%	93%	7%
2003	16%	54%	29%	15%	85%	93%	7%
2004	17%	53%	30%	16%	84%	92%	8%
2005	17%	53%	30%	16%	84%	92%	8%
2006	19%	56%	26%	16%	84%	93%	7%
2007	21%	53%	25%	18%	82%	92%	8%
2008	19%	53%	27%	19%	81%	92%	8%
2009	17%	55%	28%	18%	82%	92%	8%
2010	10%	57%	33%	16%	84%	92%	8%
2011	7%	58%	35%	17%	83%	92%	8%
2012	8%	58%	34%	19%	81%	92%	8%
2013	8%	61%	31%	20%	80%	91%	9%
2014	10%	61%	29%	20%	80%	91%	9%
2015	22%	52%	26%	22%*	78%*	91%	9%

* Remand and sentenced population composition as at 31 March 2015.

Source: Department of Corrective Services.

Table 40 Prison population composition by prisoner numbers (2002 to 2015)

Period	Maximum-security	Medium-security	Minimum-security	Remand	Sentenced	Male	Female	Total
2002	491	1,493	939	497	2,425	2,721	202	2,923
2003	458	1,549	837	435	2,408	2,633	210	2,843
2004	503	1,597	906	470	2,536	2,771	235	3,006
2005	580	1,777	1015	524	2,847	3,105	267	3,372
2006	641	1,909	883	560	2,872	3,187	245	3,433
2007	765	1,935	922	649	2,973	3,332	291	3,622
2008	741	2,030	1,031	709	3,093	3,505	298	3,803
2009	677	2,197	1,138	735	3,277	3,705	307	4,012
2010	470	2,731	1,558	751	4,008	4,373	386	4,759
2011	343	2,688	1,600	786	3,845	4,256	376	4,631
2012	373	2,778	1,644	916	3,879	4,413	382	4,795
2013	415	3,005	1,530	1,000	3,951	4,508	443	4,951
2014	506	3,044	1,480	1,027	4,003	4,569	461	5,030
2015	1,238	2,858	1,445	1,211	4,271	5,027	514	5,541

Notes: Remand and sentenced population figures as at 31 March 2015.

Source: Department of Corrective Services.

Table 41 Length of sentences imposed (2004-05 to 2013-14)

Sentence length	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Under 8 days	107	14	36	145	1,151	1,811	2,324	1,951	1,977	1,734
8 days - 1 month	471	154	150	280	230	364	453	380	436	350
1 - 2 months	406	125	190	272	66	82	47	52	84	71
2 - 3 months	258	79	101	174	72	55	49	70	80	83
3 - 6 months	204	169	149	234	188	138	87	123	125	138
6 - 12 months	803	834	785	872	967	911	865	884	941	992
1 -2 years	1,105	1,039	1,098	1,138	1,381	978	796	948	1,035	1,026
2 -3 years	409	353	374	370	421	334	292	344	368	375
3 -4 years	172	166	153	183	186	162	149	165	195	190
4 -5 years	102	116	86	95	113	101	99	112	113	106
5+ years	145	143	142	116	194	158	194	199	165	171
Other	53	50	39	53	48	55	65	38	52	37
Total sentences imposed	4,235	3,242	3,303	3,932	5,017	5,149	5,420	5,266	5,571	5,273

Source: Department of Corrective Services.

Table 42 Prisoner receptions by location when arrested (2013-14)

Region	Receptions
Central Metropolitan	418
East Metropolitan	777
North Metropolitan	1,191
South-east Metropolitan	1,080
South-west Metropolitan	1,065
Central	508
Interstate	99
Kimberley	652
Lower Great Southern	244
Midlands	189
Overseas	23
Pilbara	427
South Eastern	355
South West	790
Upper Great Southern	93
Unknown	4
Total receptions	7,915

Source: Department of Corrective Services.

A5.2 Prison staff

Table 43 Public prison staffing levels (June 2015) (based on average FTE)

Prison	Prison officers	Public servants	Total	Prisoner to prison officer ratio
Albany	166	13	179	1.53
Bandyup	154	22	176	2.06
Boronia	38	7	45	2.35
Bunbury	143	20	163	2.06
Casuarina	338	34	372	2.32
Eastern Goldfields	76	9	85	1.03
Greenough	153	14	167	1.90
Hakea	385	62	446	2.34
Karnet	130	14	144	2.45
Pardelup	39	7	45	2.13
Roebourne	80	11	91	2.08
West Kimberley	148	17	165	1.37
Wooroloo	145	18	163	2.07
Total	1,994	247	2,241	2.05

Source: Department of Corrective Services.

Note: Figures for West Kimberley include FTE and prisoner populations from Broome.

Table 44 Workers' Compensation claims as at 31 March 2015

Prison	Number of employees on claims	FTE in March 2015	Percentage of FTE on claims
Albany	7	183	3.8%
Bandyup	18	175	10.3%
Boronia	0	47	0.0%
Broome	2	42	4.8%
Bunbury	24	163	14.7%
Casuarina	49	373	13.1%
Eastern Goldfields	3	92	3.3%
Greenough	15	164	9.1%
Hakea	43	450	9.5%
Karnet	11	144	7.6%
Roebourne	5	89	5.6%
West Kimberley	1	126	0.8%
Wooroloo	16	159	10.1%
Total	194	2,208	8.8%

Source: Department of Corrective Services.

Note: Detailed figures are not available for private prisons. However, it has been stated in Parliament that the percentage for private prisons is 1 per cent.⁴⁶¹

⁴⁶¹ Parliament of Western Australia, Legislative Assembly, *Debates*, 26 March 2015, p. 2332.

A5.3 Prisoner employment and program participation

Table 45 Prisoner participation in clinical intervention programs that concluded in 2014

Prison	Prisoners participating	Completions	Completion rate
Acacia	229	186	81%
Albany	119	106	89%
Bandyup	112	106	95%
Boronia	70	68	97%
Bunbury	204	184	90%
Casuarina	265	214	81%
Eastern Goldfields	29	23	79%
Greenough	190	178	94%
Hakea	243	216	89%
Karnet	175	166	95%
Pardelup	n/a	n/a	n/a
Roebourne	20	17	85%
Wandoo	53	50	94%
West Kimberley	45	41	91%
Wooroloo	158	145	92%
Total	1,912	1,700	89%

Note: Includes all programs that concluded in 2014. Figures do not include prisoners participating in programs that were ongoing as at 31 December 2014.

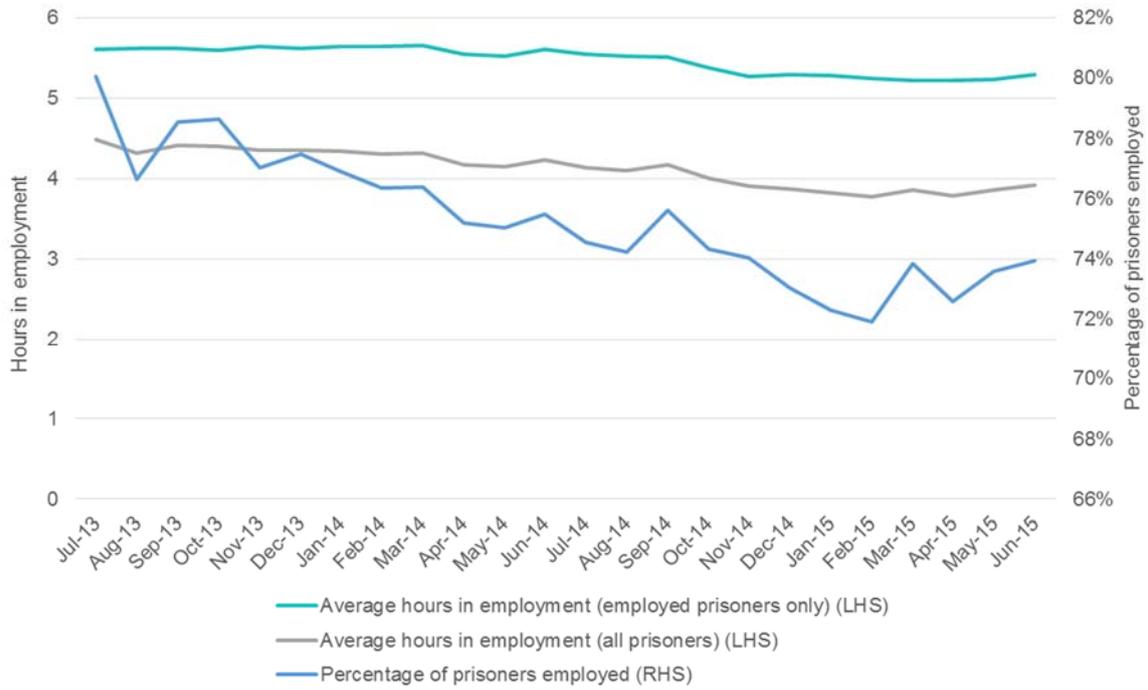
Source: Department of Corrective Services.

Table 46 Prisoner employment while in prison (2014-15)

Prison	Percentage of prisoners employed	Average daily hours in employment (employed prisoners only)
Acacia	75%	4.6
Albany	92%	5.9
Bandyup	74%	4.7
Boronia	99%	6.0
Bunbury	85%	5.0
Casuarina	63%	5.5
Eastern Goldfields	73%	5.3
Greenough	92%	6.0
Hakea	49%	5.5
Karnet	92%	5.4
Pardelup	100%	6.1
Roebourne	96%	5.0
Wandoo	n/a	n/a
West Kimberley	87%	6.0
Wooroloo	91%	6.0
All prisons	74%	5.3

Note: Superintendents are able to require prisoners (excluding remand prisoners) to be employed in the prison throughout their sentence. This employment includes working in prison industries or other prison duties such as cleaning, food preparation and gardening. *Source: Department of Corrective Services.*

Figure 27 Prisoner employment - all prisons (2013 to 2015)



Source: Department of Corrective Services.

A5.4 Department corporate and divisional performance indicators

The Department reports annually on a set of performance indicators addressing its objectives of 'security of offenders', 'safety of our people', 'safety of offenders', and 'rehabilitation'. Performance against these indicators is provided in Table 47 below. Definitions for each performance indicator are provided in Table 48.

Table 47 Corporate and divisional performance indicators (2009-10 to 2014-15)

Indicates a year-on-year improvement in performance										
Indicates a year-on-year worsening of performance										
Indicates no change in performance										
Performance Indicator	2009-10	2010-11	2011-12	2012-13	2013-14	Annual Change 2012-13 to 2013-14	2014-15 YTD [#]	Annual change 2013-14 to 2014-15 YTD	Aust. B/mark 2013-14 ROGS [*]	Diff. to Aust. B/mark 2013-14
Security of offenders										
Number of Escapes - Total Adult (Public Prisons, Private Prisons & Private Contractors)	3	10	7	10	15	5	8	-7	n/a	n/a
Escape Rate per 100 Prisoners - Total Adult (Public, Private and Contractors)	0.06	0.22	0.15	0.20	0.30	0.10	0.20	-0.10	n/a	n/a
Escape Rate per 100 Prisoners - Total Adult Secure	0.00	0.00	0.05	0.08	0.22	0.14	0.02	-0.20	0.05	0.17
Number of Escapes - Adult - Private Contractors	0	0	0	1	9	8	2	-7	n/a	n/a
MAP assessment - Adult Custodial (%)	n/a	n/a	n/a	n/a	86.6	n/a	81.7	-4.9	n/a	n/a
Eligible prisoners Case Managed - Adult Custody (%)	n/a	n/a	n/a	n/a	93.1	n/a	92.2	-0.9	n/a	n/a
Safety of our people										
Serious Assault Rate per 100 Prisoners: Prisoner-on-Staff - Adult	0.00	0.19	0.06	0.18	0.18	0.00	0.08	-0.10	0.05	0.13
Assault Rate per 100 Prisoners: Prisoner-on-Staff - Adult	0.95	1.27	0.9	1.21	1.91	0.7	1.52	-0.39	0.95	0.96
Ratio of prisoners to Operational Staff - Adult	1.69	1.65	1.75	1.70	1.72	0.02	n/a	n/a	2.00	-0.28

Performance Indicator	2009-10	2010-11	2011-12	2012-13	2013-14	Annual Change 2012-13 to 2013-14	2014-15 YTD [#]	Annual change 2013-14 to 2014-15 YTD	Aust. B/mark 2013-14 ROGS [*]	Diff. to Aust. B/mark 2013-14	
Operational Staff (Adult Custody) who have completed Mandatory Training (%)		Requires defining and development						n/a	n/a	n/a	n/a
Safety of offenders											
Serious Assault Rate per 100 Prisoners - Adult Prisoner-on-Prisoner	0.08	0.35	0.33	0.36	0.30	-0.06	0.53	0.23	0.79	-0.49	
Assault Rate per 100 Prisoners - Adult Prisoner-on-Prisoner	9.9	5.7	5.8	5.9	7.5	1.6	8.1	0.6	9.8	-2.4	
Unnatural Deaths in Custody - Adult Rate per 100 Prisoners	0.13	0.02	0.00	0.04	0.03	-0.01	0.04	0.01	0.04	-0.01	
Number of Serious Self-Harm Incidents Adults in Custody	12	8	9	3	5	2	12	7	n/a	n/a	
Number of Self-Harm Incidents Adults in Custody	231	252	221	267	285	18	269	-16.00	n/a	n/a	
Average Out-of-Cell Hours - Adult Number of Hours per Day	12.2	12.1	12.5	12.6	12.6	0	12.4	-0.2	10.1	2.4	
Minimum Average Daily Out-of-Cell Hours During any Weekly Period - Adult		Requires defining and development						n/a	n/a	n/a	n/a
Maximum Average Daily Out-of-Cell Hours During any Weekly Period - Adult		Requires defining and development						n/a	n/a	n/a	n/a
Positive Random Drug Tests - Adult Custody (%)	5.5	4.4	5.3	5.4	5.6	0.2	4.8	-0.8	n/a	n/a	
Positive Targeted Drug Tests - Adult Custody (%)	10.8	10.5	11.9	10.9	12.5	1.6	12.9	0.4	n/a	n/a	
Eligible Prisoners Case managed - Adult Custody (%)	n/a	n/a	n/a	n/a	93.1	n/a	92.2	-0.9	n/a	n/a	
Prisoner Compliance with IMP - Adult Custody (%)	n/a	n/a	n/a	n/a	96.1	n/a	88.6	-7.5	n/a	n/a	
Rehabilitation											
Adult Rate of Return - Prison to Corrective Services (Custody and Community) (%)	53.7	51.5	44.2	43.2	45.2	2.0	42.2	-3.0	48.2	-3.0	
Adult Rate of Return – Prison-to-Prison (%)	45.3	44.2	36.2	36.3	39.0	2.7	35.9	-3.1	42.1	-3.1	

Performance Indicator	2009-10	2010-11	2011-12	2012-13	2013-14	Annual Change 2012-13 to 2013-14	2014-15 YTD [#]	Annual change 2013-14 to 2014-15 YTD	Aust. B/mark 2013-14 ROGS [*]	Diff. to Aust. B/mark 2013-14
Adult Rate of Return – Prison to Corrective Services (Custody and Community) - Program Completers (%)	n/a	36.1	43.2	42.4	40.2	-2.2	39.6	-0.6	n/a	n/a
Participation in Rehabilitation Program - Adult Custodial (%)	n/a	n/a	n/a	n/a	31.2	n/a	31.8	0.6	n/a	n/a
Prisoners Exiting with Accommodation - Adult Custodial (%)	n/a	n/a	n/a	n/a	91.6	n/a	92.2	0.6	n/a	n/a

Notes:

[#] Figures for 2014-15 year to date are annualised from data covering the first three quarters of 2014-15.

^{*} Australian Benchmark Is the data for Australia 2013-14 as published in the Report on Government Services (**ROGS**) 2015.

NA = Not available

Source: Department of Corrective Services.

Table 48 Performance indicator definitions

Performance Indicator	Definition
Security of offenders	
Number of Escapes - Adult (Public, Private Prisons & Contractors)	The number of adult escapes/absconds from custody from all facilities and services within the responsibility of the Commissioner. All facilities includes secure facilities, non-secure facilities, work parties attached to an open or secure facility, but operating outside the perimeter, a 'walk-off' from a work camp, from transport vehicles or escorts conducted by the Department or on behalf of the Department. The number excludes persons in custody under the <i>Criminal Law (Mentally Impaired Accused) Act 1996</i> .
Escape Rate per 100 Prisoners – Adult (Public, Private Prisons & Contractors)	The number of adult escapes divided by the daily average prisoner population multiplied by 100.
Escape Rate per 100 Prisoners – Adult (Secure Prisons)	The number of adult escapes from secure custody divided by the daily average prisoner population for secure custody multiplied by 100. Secure custody, as per the Productivity Commission's definition in its <i>Report on Government Services</i> , is 'a custodial facility where the regime for managing prisoners requires them to be confined by a secure perimeter physical barrier.'
Number of Escapes - Adult (Private Prisons & Contractors)	The number of adult escapes from facilities and services managed by private contractors on behalf of the Department.
MAP Assessment – Adult Custodial (%)	The total number of Management and Placement (MAP) risk assessments completed (remand and sentenced) on time divided by the total number of MAP assessments completed and multiplied by 100.
Eligible prisoners case managed - Adult Custody (%)	The number of prisoners being cased managed divided by the total number of prisoners eligible for case management and multiplied by 100. A case managed prisoner has an individual case officer assigned to them in respect to assisting them achieve their individual Management Plan (IMP) requirements.
Safety of our people	
Serious Assault Rate per 100 Prisoners (Prisoner-on-Staff) – Adult Custodial	The number of physical assaults committed by prisoners on adult custodial staff counted using the number of victims divided by the daily average prisoner population and multiplied by 100. Serious assaults are those that result in overnight hospital care and/or continued medical treatment. Serious assaults include all sexual assaults.
Assault Rate per 100 Prisoners (Prisoner-on-Staff) - Adult Custodial	The number of physical assaults committed by prisoners on adult custodial staff counted using the number of victims divided by the daily average prisoner population and multiplied by 100. Assaults do not require overnight hospital care and/or continued medical treatment.
Ratio of Prisoners to Adult Custodial Operational Staff -- Adult Custodial	The daily average number of adult prisoners divided by the average adult custodial operational staff FTE.
Adult Custodial Operational Staff who have completed Mandatory Training - Adult Custodial	The proportion of adult custodial staff in operational roles who have completed mandatory training.

Performance Indicator	Definition
Safety of offenders	
Serious Assault Rate per 100 Prisoners (Prisoner-on-Prisoner) – Adult Custodial	The number of physical assaults committed by prisoners on other prisoners counted using the number of victims divided by the daily average prisoner population and multiplied by 100. Serious assaults are those that resulted in overnight hospital care and /or continued medical treatment. Serious assaults include all sexual assaults.
Assault Rate per 100 Prisoners (Prisoner-on-Prisoner) – Adult Custodial	The number of physical assaults on adult custodial staff divided by the daily average prisoner population and multiplied by 100. Assaults do not require overnight hospital care and /or continued medical treatment.
Unnatural Deaths in Custody (Rate per 100 Prisoners) – Adult Custodial	The number of apparently unnatural deaths in custody divided by the daily average prisoner population and multiplied by 100. Unnatural deaths in custody include those that occur during transfer to or from prison, or in medical facilities following transfer from prison. An apparent unnatural death occurs when the Coroner finds (or there is sufficient evidence to suggest) death by homicide, suicide, accidental cause or a drug overdose.
Number of Serious Self-Harm Incidents for Adults in Custody – Adult Custodial	The number of serious self-harm incidents or attempted suicides for adults in custody. Serious self-harm is an act, which causes an injury requiring medical treatment resulting in overnight hospitalisation in a medical facility (e.g. prison clinic/infirmary/hospital or public hospital) and/or requires ongoing medical treatment. Attempted suicide is an act of serious self-harm deliberately initiated and performed by the individual.
Number of Self-Harm Incidents for Adults in Custody – Adult Custodial	The number of self-harm incidents where self-harm is defined as a deliberate self-inflicted injury (e.g. lacerated inner arms or pulled out sutures).
Average Out-of-Cell Hours Number of Hours per Day – Adult Custodial	The average number of hours that adult prisoners are free to leave their cells.
Minimum Average Out-of-Cell Hours During any one Week – Adult Custodial	The lowest number of average out-of-cell hours during any one week.
Maximum Average Out-of-Cell Hours During any one Week – Adult Custodial	The highest number of average out-of-cell hours during any one week.
Positive Random Drug Tests for Adults in Custody – Adult Custodial (%)	The proportion of positive random drug tests is the number of positive tests divided by the number of randomly conducted drug tests and multiplied by 100.
Positive Targeted Drug Tests for Adults in Custody – Adult Custodial (%)	The proportion of positive targeted drug tests is the number of positive tests divided by all targeted drug tests. Targeted tests are based on prison intelligence, previous positive results and profiling of high risk drug users and multiplied by 100.
Eligible prisoners case managed – Adult Custodial (%)	The number of prisoners being cased managed divided by the total number of prisoners eligible for case management and multiplied by 100.
Prisoner Compliance with IMP – Adult Custodial (%)	The number of sentenced prisoners with and Individual Management Plan completed divided by the total number of sentenced prisoners and multiplied by 100.

Performance Indicator	Definition
Rehabilitation	
Adult Rate of Return: % Prison to Corrective Services (Custody and Community) – Adult Custodial	The rate of return from prison to Corrective Services is the proportion of sentenced prisoners released from prison who return to Corrective Services (either community corrections or custody) under sentence within two years of their release.
Adult Rate of Return: % Prison-to-Prison – Adult Custodial	The rate of return from prison back to prison is the proportion of sentenced prisoners released who return to custody under sentence within two years of their release.
Adult Rate of Return for Program Completers: % Prison-to-Corrective Services (Custody and Community) – Adult Custodial	The proportion of sentenced prisoners released from custody who had completed at least one prison program and who return to Corrective Services (either Community Corrections or custody) under sentence within two years of their release. Prison programs are those conducted in the prison aimed at maximising the prospects of successful re-integration after leaving prison and include: Violent offender, Addictions offending, Sex offender, general offending and cognitive skills programs. Prison program excludes education programs.
Participation in rehabilitation programs – Adult Custodial (%)	The total number of prisoners who were enrolled or participating in a rehabilitation activity/program (Section 95, Traineeship, Employment, Clinical intervention) divided by the total number of prisoners eligible and multiplied by 100.
Prisoners exiting with accommodation – Adult Custodial (%)	The total number of prisoners exiting custody (freedom and parole) with accommodation divided by the total number of prisoners exiting custody and multiplied by 100.

Source: Department of Corrective Services.

A5.5 Individual prison performance

A5.5.1 Public prisons

Until the end of 2014, the Department compiled a quarterly set of performance indicators showing public prison performance in each month.⁴⁶² The ERA has provided this data below, beginning with a summary of the frequency with which each prison met its performance target during the period from July 2013 to December 2014. The Department has advised the ERA that as of 2015, this information is no longer compiled. The performance reports provided by the Department have not been audited and therefore, the accuracy of the data in this section cannot be guaranteed.

The ERA has published this data to provide readers with additional context, and an understanding of the performance measurement approach that has been undertaken to date. However, the ERA does not consider that these are robust measures that are suitable for use in benchmarking. The reasons for this are discussed in Chapter 6.

The Department uses a different set of performance indicators for private prisons. These are detailed in Section A5.5.2.

The ERA notes that the performance indicators for private prisons give an initial impression that private prisons perform more effectively than their public counterparts, as private prisons tend to consistently achieve a higher proportion of their targets. However, this should be interpreted with caution, given that the two are measured against very different targets. The different in performance may, at least in part, be due to the fact that standards are inconsistent, and so it is easier for some prisons to achieve their targets than others. This is discussed at length in Chapter 6.

Definitions for each performance indicator applied to public prisons are provided at in Section A5.5.3.

⁴⁶² A small number of indicators are measured on a quarterly basis, as indicated in the tables that follow.

Table 49 Percentage of periods in which performance indicator was met (July 2013 to December 2014) (continued over page)

Note that figures represent the percentage of times the performance indicator target was met. For instance, a score of 56 per cent for ‘% of prisoners assaulted in prisons’ means that the prison’s assault rate was at or lower than its specified target 56 per cent of the times it was measured. (That is, it does not mean that 56 per cent of prisoners were assaulted.)

		% times performance target met during period															
		0%	1-20%	21-40%	41-60%	61-80%	81-100%										
Average achievement (all indicators)		% of prisoners assaulted in prisons	% of staff assaulted in prisons	Number of occurrences of serious self-harm or attempted suicide	Number of prisoners who escape or are unlawfully released from custody	Number of positive drug tests that result in a charge being laid (not DPT)	% of eligible prisoners case managed	MAP – Remand	Prisoner Assessment – Compliance with IMPs and Sentenced MAPs (%)	Initial IMP	Average annual leave liability per staff member (wks)	Average long service leave liability per staff member (wks)	Personal Leave	Workers' Comp	Initiated	% of initiated PADS agreements & completed mid-year / final reviews	Number of emergency management exercises conducted
		Albany	34%	56%	44%	83%	100%	67%	61%	56%	61%	0%	0%	39%	56%	56%	0%
Bandyup	34%	44%	28%	33%	100%	56%	83%	73%	67%	11%	17%	6%	44%	28%	0%	33%	33%
Boronia	65%	88%	100%	100%	100%	56%	61%		89%	67%	0%	17%	67%	100%	0%	100%	100%
Broome	53%	83%	83%	75%	100%	83%	42%	0%	100%	100%	17%	0%	58%	58%	100%	100%	0%
Bunbury	35%	31%	75%	80%	100%	61%	39%	72%	72%	0%	0%	0%	44%	28%	0%	0%	100%
Casuarina	22%	13%	13%	0%	83%	44%	17%	22%	0%	0%	6%	28%	61%	33%	0%	0%	33%
Eastern Goldfields	45%	63%	75%	40%	67%	50%	61%	78%	78%	44%	28%	39%	50%	83%	0%	50%	33%
Greenough	40%	31%	56%	60%	83%	61%	17%	89%	78%	17%	11%	0%	56%	28%	0%	0%	100%
Hakea	22%	44%	25%	0%	67%	56%	0%		0%	0%	11%	6%	67%	28%	0%	0%	100%
Karnet	45%	63%	81%	100%	50%	28%	39%		100%	83%	22%	39%	39%	22%	50%	0%	100%
Pardelup	66%	100%	94%	100%	100%	44%	83%		100%	100%	28%	33%	100%	78%	50%	100%	100%
Roebourne	46%	63%	69%	100%	83%	67%	56%	100%	94%	17%	22%	33%	61%	33%	0%	33%	100%
West Kimberley	42%	50%	94%	80%	100%	53%	0%	89%	89%	61%	6%	11%	28%	56%	0%	67%	100%
Woorloo	36%	31%	94%	100%	83%	28%	17%		100%	17%	0%	28%	44%	17%	50%	33%	33%

Table 50 Percentage of periods in which performance indicator was met (July 2013 to December 2014) (begins on previous page)

	% times performance indicator met during period													
	0%	1-20%	21-40%	41-60%	61-80%	81-100%								
	% of prisoners enrolled in clinical intervention programs	Skills Training – Average number of Use of Force skills per uniformed officer	Skills Training – % of uniformed staff trained in Grievance	% of eligible prisoners approved for Prisoner Employment Program (PEP)	% of prisoners completing a traineeship	Parole Freedom	% of prisoners leaving custody with accommodation	% of urine sample tests that return a positive result (DPT)	Anti-Bullying Code of Conduct Code of Conduct	Skills Training – % of uniformed staff trained in Anti-Bullying and Code of Conduct Code of Conduct	% of prisoners approved for participation in Section 95 activity	Skills Training – Percentage of uniformed staff trained in Grooming	Total hours prisoners engaged in community work (Section 95)	Skills Training – Percentage of uniformed staff trained in Breathing Apparatus
Albany	0%													
Bandyup	50%	35%	44%											
Boronia			61%	25%	33%	78%	94%	83%						
Broome														
Bunbury	56%	35%	0%	33%	22%									
Casuarina	39%	47%	44%											
Eastern Goldfields	39%	12%	22%	0%										
Greenough	56%	29%	39%	50%							44%			
Hakea	33%	12%												33%
Karnet	28%		11%		39%						22%			
Pardelup		53%		58%	28%	65%	67%					50%	0%	
Roebourne		0%	0%											
West Kimberley	28%	0%	25%											
Wooroloo	56%								22%	50%				

Source: Department of Corrective Services Public Prisons Performance Reports 2014 – 2015.

The following tables show monthly performance for each of Western Australia's public prisons over the period July 2013 to December 2014. Most performance indicators are measured monthly, with the exception of occurrences of self-harm, attempted suicide, escapes (measured quarterly), and Performance and Development System reviews (measured over cumulative three-month periods).

Note that the performance indicators for Broome only continue until June 2014. In September 2014, the Broome facility became an annex of the West Kimberley prison for reporting purposes.

Cells are coloured as follows:

■ Target met ■ Target not met ■ Cumulative figure; target measured at end of quarter

Table 51 Prison performance indicators: Albany (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	0.7	1.3	1.0	0.3	1.3	0.7	1.3	0.3	0.3	2.3	0.7	0.4	1.9	0.6	0.6	1.3	0.7	n/a	n/a
% of staff assaulted in prisons	Nil	0.3	0.0	0.0	0.3	0.3	0.3	0.7	0.0	0.0	0.7	0.4	1.6	1.0	0.0	0.0	0.0	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			0.0			0.0			0.0			0.0			1.0
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	3	8.0	6.0	1.0	0.0	3.0	5.0	7.0	1.0	5.0	3.0	4.0	0.0	0.0	0.0	1.0	0.0	0.0	1.0
% of eligible prisoners case managed	100.0	100.0	100.0	98.8	100.0	99.6	100.0	100.0	99.6	98.0	100.0	100.0	99.6	98.4	99.2	100.0	100.0	100.0	100.0
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	100.0	100.0	100.0	100.0	100.0	94.1	100.0	92.3	93.8	82.4	90.3	94.7	100.0	93.5	96.6	100.0	100.0	100.0
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	99.3	99.6	100.0	98.8	98.2	99.7	100.0	98.9	100.0	99.6	100.0	100.0
	Initial IMP 100.0	98.1	99.6	98.5	98.1	97.7	97.8	98.2	98.2	98.2	97.4	97.6	97.1	98.1	96.2	94.8	94.5	95.1	93.1
Average annual leave liability per staff member (wks)	4.3	5.3	4.8	4.9	4.8	4.7	4.4	4.4	4.7	4.6	4.4	4.7	4.9	4.8	4.8	4.5	4.5	4.4	4.4
Average long service leave liability per staff member (wks)	3.5	3.8	3.7	3.5	3.8	4.0	3.9	3.8	3.7	3.6	3.5	3.7	3.7	3.6	3.5	3.4	3.4	3.4	3.2

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Average hours of personal leave and workers' comp. taken per staff member	Pers. Lve 8.0	9.0	7.1	8.7	8.0	10.1	8.0	7.8	9.6	7.0	6.6	7.9	10.6	7.5	7.2	12.9	10.7	10.1	7.3
	Workers' Comp 2.1	2.9	1.0	1.9	2.4	1.7	1.2	2.2	2.6	2.9	2.0	2.1	2.5	1.9	1.3	3.3	2.6	2.0	2.0
% of initiated PADS agreements & completed mid-year / final reviews	Initiated - 100.0	0.0	27.1	93.2										28.5	51.5	99.4			
	Mid-year / Final - 100.0	12.6	55.5	97.1				0.0	59.0	96.5				0.0	35.1	99.4			
Number of emergency management exercises conducted	6 per year (minimum)	1.0	0.0	1.0	0.0	1.0	0.0	0.0	1.0	0.0	0.0	0.0	1.0	0.0	2.0	0.0	1.0	1.0	0.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	79.3	77.2	74.9	75.4	74.9	71.5	78.6	77.8	77.3	76.6	73.6	76.4	79.9	81.0	77.1	78.0	76.9	70.1
	Gatekeeper 100.0	78.7	76.0	76.6	76.6	76.6	76.2	78.0	76.7	76.7	77.1	77.6	77.6	77.6	78.7	77.7	78.0	77.5	79.3
Out-of-cell hours	11.5	11.0	10.9	10.8	10.8	10.4	10.7	10.7	10.6	10.8	10.6	10.6	10.7	10.9	10.7	10.8	11.2	11.3	11.4
% of prisoners involved in employment	97.3	99.4	94.8	92.7	95.1	98.0	97.0	97.3	94.1	92.7	92.1	91.1	85.3	91.8	91.6	91.2	92.9	89.1	91.1
% of prisoners enrolled in education	53.6	52.6	46.4	49.1	41.0	40.4	48.6	34.1	41.4	44.9	49.8	54.0	58.4	56.7	51.6	52.5	43.9	48.3	43.8
% of prisoners enrolled in clinical intervention programs	3.5	n/a	3.0	3.1	3.2	3.1	3.0	3.1	3.0	3.1	3.1	3.1	3.2	3.3	3.4	3.4	3.4	3.2	3.2

Table 52 Prison performance indicators: Bandyup (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	1.5	1.9	1.5	0.8	2.0	1.2	1.8	1.8	1.4	2.1	2.8	1.7	1.7	1.0	1.0	4.0	2.6	0.0	0.0
% of staff assaulted in prisons	Nil	1.1	0.4	5.6	1.2	2.3	0.0	0.4	0.4	0.7	0.0	0.3	0.3	1.4	1.7	0.0	1.0	0.0	0.0
Number of occurrences of serious self-harm or attempted suicide	Nil			2.0			0.0			2.0			1.0			1.0			0.0
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	7	11.0	7.0	7.0	12.0	10.0	13.0	8.0	21.0	5.0	5.0	7.0	3.0	14.0	6.0	4.0	7.0	8.0	5.0
% of eligible prisoners case managed	100.0	100.0	99.1	100.0	100.0	100.0	100.0	89.8	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	97.2	100.0

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14			
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	100.0	100.0	98.6	98.6	100.0	100.0	100.0	100.0	100.0	100.0	99.2	n/a									
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	99.5	99.4	100.0	100.0	100.0	99.4	100.0	99.5	99.5	99.0			
	Initial IMP 100.0	98.6	98.6	99.3	100.0	98.6	99.3	100.0	98.6	96.9	93.3	98.5	97.3	94.2	93.3	96.3	99.3	98.0	99.3			
Average annual leave liability per staff member (wks)	3.6	4.0	3.8	3.6	4.0	3.7	3.5	3.5	4.0	3.8	4.1	4.2	4.3	4.4	4.1	4.3	4.2	4.1	3.9			
Average long service leave liability per staff member (wks)	3.9	3.8	4.2	4.1	4.4	4.4	4.4	4.3	4.5	4.5	4.3	4.5	4.5	4.4	4.5	4.5	4.5	4.4	4.3			
Average hours of personal leave and workers' comp. taken per staff member	Pers. Lve 10.0	10.1	11.3	13.8	10.5	11.8	11.5	10.2	12.7	12.9	8.8	10.0	9.1	10.0	7.7	10.6	0.0	2.0	0.0			
	Workers' Comp 1.6	3.0	2.3	1.7	3.5	2.2	1.1	1.4	1.1	0.1	3.1	2.3	1.4	3.6	3.1	3.6	3.0	1.9	1.7			
% of initiated PADS agreements & completed mid-year / final reviews	Initiated - 100.0	8.8	31.0	86.6											28.8	60.7	95.0					
	Mid-year / Final - 100.0	12.3	26.5	96.4											5.5	11.7	93.8	9.3	33.1	100.0		
Number of emergency management exercises conducted	6 per year (minimum)	0.0	0.0	0.0	0.0	2.0	1.0	0.0	2.0	0.0	0.0	0.0	0.0	0.0	1.0	1.0	0.0	0.0	1.0			
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	78.4	73.4	66.0	75.2	87.0	88.4	74.7	82.6	80.5	80.4	76.7	79.6	74.8	79.3	80.4	83.8	79.6	91.4			
	Gatekeeper 100.0	75.5	72.0	50.7	75.9	76.7	78.8	74.7	76.5	75.2	75.0	78.1	76.9	76.2	80.0	81.1	79.7	78.3	82.2			
Out-of-cell hours	11.5	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.1	11.2			
% of prisoners involved in employment	82.5	78.9	77.9	82.5	81.4	77.3	76.6	70.9	77.1	76.6	77.0	77.2	76.5	75.2	74.5	76.3	73.7	74.8	70.2			
% of prisoners enrolled in education	58.8	62.8	53.7	65.7	64.0	63.0	49.5	37.8	52.5	48.3	48.8	55.4	47.7	52.0	40.5	44.6	42.5	43.6	35.8			
% of prisoners enrolled in clinical intervention programs	12.7	12.7	11.9	12.9	12.1	10.9	10.3	6.9	14.7	11.5	12.7	13.1	13.0	10.8	10.8	11.0	23.2	23.1	14.3			
Skills Training – Average number of Use of Force skills per uniformed officer	3.7	n/a	3.2	3.2	3.1	3.1	3.1	3.2	3.5	3.5	3.4	3.6	3.7	3.7	4.1	4.1	3.9	3.6	4.1			
Skills Training – % of uniformed staff trained in Grievance	74.0	59.0	51.0	50.7	50.4	42.5	39.0	37.3	58.4	58.4	56.8	78.1	78.2	77.6	81.4	82.5	79.1	86.2	90.1			

Table 53 Prison performance indicators: Boronia (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	Nil	0.0	0.0	0.0	0.0	1.2	1.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a
% of staff assaulted in prisons	Nil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			0.0			0.0			0.0			0.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	0	0.0	3.0	0.0	3.0	0.0	0.0	2.0	0.0	0.0	0.0	3.0	0.0	0.0	1.0	0.0	1.0	2.0	3.0
% of eligible prisoners case managed	100.0	100.0	100.0	100.0	100.0	98.4	100.0	100.0	100.0	98.4	100.0	100.0	100.0	100.0	98.5	98.5	98.6	97.1	97.0
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	n/a																	
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	98.8	98.8	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Initial IMP 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	98.4	98.3	100.0	97.3	98.7	100.0	98.7	98.6
Average annual leave liability per staff member (wks)	7.0	7.7	7.6	7.3	7.6	7.5	7.7	7.7	8.0	7.8	8.1	8.0	8.0	8.3	8.0	7.9	8.0	7.9	7.6
Average long service leave liability per staff member (wks)	7.0	7.1	7.0	7.0	7.7	7.9	7.8	8.1	8.0	7.9	8.3	8.3	8.4	8.5	8.1	7.6	7.5	7.1	6.8
Average hours of personal leave and workers' comp. taken per staff member	Pers. Lve 8.6	9.8	8.6	7.3	12.6	16.2	14.7	9.0	6.6	4.9	6.6	7.7	6.9	10.2	3.9	6.9	2.9	3.0	1.0
	Workers' Comp 0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	0.0	27.1	97.9										0.0	34.2	94.7			
	Mid-year / Final - 100.0	7.0	34.1	100.0				4.8	21.4	100.0				4.8	14.6	100.0			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	2.0	2.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0	1.0	0.0	2.0	0.0	0.0	2.0	0.0	0.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	75.6	75.6	97.6	100.0	100.0	89.5	100.0	100.0	100.0	100.0	88.9	89.2	94.4	91.9	91.9	91.9	91.9	89.7
	Gatekeeper 100.0	87.8	87.8	87.8	94.7	94.7	94.7	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Out-of-cell hours	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0	16.0
% of prisoners involved in employment	100.0	100.0	97.5	100.0	97.5	100.0	96.3	97.5	97.5	98.8	100.0	100.0	100.0	94.3	100.0	100.0	97.8	96.8	98.9
% of prisoners enrolled in education	91.6	92.6	81.3	83.2	81.7	89.9	98.9	80.2	86.2	78.5	98.8	90.5	97.5	85.2	81.9	100.0	83.9	80.0	77.6
Skills Training – % of uniformed staff trained in Grievance	Grievance 100.0	90.2	90.2	90.2	97.4	97.4	97.4	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	94.9
% of eligible prisoners approved for Prisoner Employment Program (PEP)	13.4	n/a	n/a	n/a	n/a	n/a	n/a	25.0	21.3	10.2	11.9	11.1	14.0	9.0	7.2	11.6	9.7	10.8	12.3
% of prisoners completing a traineeship	9.3	10.1	8.9	7.6	8.9	4.9	4.9	6.2	6.2	10.0	10.0	10.2	9.2	12.0	11.7	9.1	5.5	4.4	4.5
% of prisoners leaving custody with accommodation	Parole 100.0	83.3	88.9	80.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	33.3	100.0
	Freedom 100.0	100.0	100.0	100.0	100.0	66.7	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
% of urine sample tests that return a positive result (DPT)	0.0	0.0	n/a	n/a	n/a	0.0	n/a	n/a	0.0	n/a	n/a	n/a	0.0	0.0	n/a	n/a	n/a	n/a	3.0

Table 54 Prison performance indicators: Broome (July 2013 to December 2014)

Data from September 2014 is incorporated in the West Kimberley figures, to which Broome was annexed in that month.

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	Nil	2.7	0.0	0.0	0.0	6.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a	n/a	n/a	n/a	n/a
% of staff assaulted in prisons	Nil	0.0	4.4	0.0	0.0	0.0	0.0	3.3	0.0	0.0	0.0	0.0	0.0	n/a	n/a	n/a	n/a	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			2.0			0.0			0.0			n/a			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			n/a			n/a
Number of positive drug tests that result in a charge being laid (not DPT)	0	1.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a	n/a	n/a	n/a	n/a
% of eligible prisoners case managed	100.0	96.6	100.0	100.0	93.8	100.0	100.0	100.0	90.9	66.7	90.0	54.5	70.0	n/a	n/a	n/a	n/a	n/a	n/a
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	n/a	n/a	n/a	n/a	n/a	n/a

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	n/a	n/a	n/a	n/a	n/a	n/a
	Initial IMP 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	n/a	n/a	n/a	n/a	n/a	n/a
Average annual leave liability per staff member (wks)	4.8	5.2	5.0	5.0	4.8	5.3	4.8	5.3	5.2	5.5	5.5	5.5	5.8	n/a	n/a	n/a	n/a	n/a	n/a
Average long service leave liability per staff member (wks)	3.8	3.9	4.3	3.9	4.0	4.6	5.0	4.8	4.5	4.6	5.1	5.1	5.0	n/a	n/a	n/a	n/a	n/a	n/a
Average hours of personal leave and workers' comp. taken per staff member	Pers. Lve 10.0	6.2	4.7	7.1	7.2	14.8	13.0	9.1	9.2	11.1	16.7	13.3	9.8	n/a	n/a	n/a	n/a	n/a	n/a
	Workers' Comp 3.6	4.9	5.6	6.4	10.3	6.8	1.3	0.0	0.0	0.0	0.6	1.0	0.6	n/a	n/a	n/a	n/a	n/a	n/a
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	18.8	18.8	100.0										n/a	n/a	n/a			
	Mid-year / Final - 100.0	7.0	34.1	100.0				4.8	21.4	100.0				n/a	n/a	n/a			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0	n/a	n/a	n/a	n/a	n/a	n/a
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	89.1	94.2	99.9	n/a														
	Gatekeeper 100.0	85.5	90.4	95.9	n/a														
Out-of-cell hours	14.1	14.3	13.9	13.9	13.8	13.4	13.5	13.3	13.3	13.4	13.2	13.3	13.3	n/a	n/a	n/a	n/a	n/a	n/a

Table 55 Prison performance indicators: Bunbury (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	Nil	0.6	0.3	0.0	0.9	0.3	0.0	0.3	0.0	0.0	0.3	0.3	0.6	1.9	0.7	0.0	2.0	n/a	n/a
% of staff assaulted in prisons	Nil	0.0	0.0	0.3	0.0	0.0	0.3	0.0	0.0	0.0	2.4	0.0	0.0	0.0	0.0	0.0	1.4	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			1.0			0.0			0.0			0.0			
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			0.0			

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Number of positive drug tests that result in a charge being laid (not DPT)	8	11.0	14.0	16.0	14.0	1.0	19.0	8.0	4.0	6.0	5.0	5.0	7.0	2.0	0.0	4.0	12.0	12.0	7.0
% of eligible prisoners case managed	100	100.0	99.2	99.2	98.8	100.0	100.0	99.2	99.6	97.2	99.2	100.0	99.1	100.0	99.6	100.0	99.1	100.0	99.6
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	100.0	100.0	96.4	100.0	90.0	100.0	100.0	100.0	100.0	97.1	95.7	100.0	100.0	97.2	100.0	100.0	100.0	100.0
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	99.3	100.0	100.0	100.0	100.0	99.6	100.0	100.0	100.0	100.0	99.6	99.2	99.6	100.0
	Initial IMP 100.0	99.3	97.5	98.1	98.6	98.2	98.3	98.6	98.9	99.3	97.7	99.6	97.1	98.0	96.8	97.6	98.8	96.8	98.8
Average annual leave liability per staff member (wks)	4.1	4.6	4.7	4.7	4.5	4.3	4.5	4.3	4.5	4.7	4.8	4.4	4.8	4.9	4.6	4.7	4.6	4.6	4.4
Average long service leave liability per staff member (wks)	3.3	3.4	3.4	3.6	3.7	3.8	3.8	3.8	3.7	3.7	3.7	4.1	4.0	4.0	3.9	3.9	4.0	3.9	4.1
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 10.0	11.6	13.2	11.9	9.7	11.8	10.0	7.6	10.4	6.4	11.3	12.0	13.0	7.8	7.3	10.4	14.3	8.4	6.3
	Workers' Comp 4.5	4.8	3.6	4.0	4.3	3.8	3.8	5.7	5.3	7.3	5.2	5.8	6.2	9.0	6.2	8.3	9.3	10.0	8.4
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	0.0	19.4	77.5										19.3	30.7	94.6			
	Mid-year / Final - 100.0	0.0	44.9	82.4				12.7	25.3	98.0				10.6	29.6	94.3			
Number of emergency management exercises conducted	6 per year (minimum)	1.0	1.0	1.0	0.0	0.0	0.0	0.0	1.0	1.0	0.0	1.0	0.0	1.0	1.0	0.0	1.0	0.0	0.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	90.7	90.1	89.5	93.5	94.1	95.4	98.0	98.7	70.0	77.5	77.5	73.5	78.7	88.7	89.3	90.0	90.7	91.3
	Gatekeeper 100.0	70.7	70.4	73.9	73.9	74.3	75.0	75.5	76.0	64.7	64.2	64.2	64.2	64.7	64.7	65.1	64.7	62.3	65.3
Out-of-cell hours	13.4	12.4	12.6	12.5	12.6	12.4	12.8	13.0	13.0	12.9	12.9	12.9	12.8	12.8	12.7	12.7	12.7	12.7	12.7
% of prisoners involved in employment	94.6	98.2	68.1	95.3	94.5	76.3	92.6	76.8	75.7	94.6	93.1	73.7	93.9	84.6	71.2	88.0	89.7	81.9	81.9
% of prisoners enrolled in education	39.6	36.8	36.8	40.0	40.7	39.4	22.3	16.8	27.7	26.1	44.2	50.8	47.9	52.0	40.9	35.8	32.1	40.5	36.1
% of prisoners enrolled in clinical intervention programs	22.2	28.1	21.9	22.3	20.4	17.6	17.9	7.6	17.0	23.1	23.5	14.3	29.2	5.2	30.2	26.5	53.1	46.2	45.8

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Skills Training – Average number of Use of Force skills per uniformed officer	4.1	n/a	2.8	3.1	3.4	3.6	3.7	3.8	4.1	4.0	3.9	3.9	3.8	4.0	4.1	4.4	4.2	4.3	4.3
Skills Training – % of uniformed staff trained in Grievance	98.0	96.0	94.7	94.1	94.1	94.7	95.4	96.0	96.7	96.7	96.0	96.0	96.0	96.7	96.7	97.3	96.7	96.0	96.7
% of eligible prisoners approved for Prisoner Employment Program (PEP)	10.5	n/a	n/a	n/a	n/a	n/a	n/a	10.8	12.7	9.9	10.3	9.4	4.2	9.6	8.8	8.5	6.8	11.6	13.0
% of prisoners completing a traineeship	6.0	6.0	6.1	6.1	6.5	5.9	5.3	4.6	5.7	5.4	5.8	5.5	5.0	3.6	4.4	5.3	4.7	5.1	5.7

Table 56 Prison performance indicators: Casuarina (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	0.6	0.8	1.3	1.4	0.6	0.8	0.9	1.0	1.4	1.0	1.1	0.4	1.0	1.2	1.0	0.8	0.9	n/a	n/a
% of staff assaulted in prisons	Nil	0.2	0.2	0.3	0.0	0.3	0.3	0.5	0.0	0.6	0.7	1.5	0.1	0.3	0.3	0.1	0.3	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			1.0			4.0			1.0			2.0			2.0			1.0
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			1.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	9	2.0	21.0	16.0	9.0	20.0	17.0	15.0	6.0	6.0	5.0	19.0	1.0	7.0	8.0	15.0	15.0	11.0	12.0
% of eligible prisoners case managed	100	96.2	97.3	96.5	98.6	94.8	96.3	95.1	95.5	95.6	100.0	100.0	100.0	95.6	95.1	93.7	92.6	91.8	87.5
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	41.8	42.6	36.4	29.3	26.3	32.4	28.9	32.6	36.2	28.6	27.3	26.6	29.6	27.7	25.3	24.3	26.2	25.2
	MAP - Sentenced 100.0	99.6	99.8	99.6	99.4	99.8	99.2	99.4	98.8	99.2	98.4	98.7	96.3	96.3	95.7	96.9	98.0	95.7	94.2
	Initial IMP 100.0	98.2	98.4	95.3	95.4	99.4	96.5	94.5	94.4	92.1	88.6	87.4	86.9	88.0	85.4	82.9	82.2	76.8	72.7
Average annual leave liability per staff member (wks)	6.9	7.4	7.4	7.3	7.2	7.1	7.1	6.8	7.0	7.2	7.3	7.4	7.6	7.7	7.6	7.5	7.5	7.3	7.0
Average long service leave liability per staff member (wks)	3.6	4.0	3.8	3.8	3.9	3.9	3.9	3.8	3.8	3.8	3.7	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.7
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 10.2	12.8	12.3	10.2	8.7	9.4	12.2	7.7	9.8	11.6	10.9	13.0	14.6	9.2	7.8	7.4	9.4	8.1	7.0

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Workers' Comp 6.6		7.1	4.0	5.7	9.9	9.5	7.2	8.1	9.1	9.0	8.1	8.2	5.9	10.0	6.3	7.3	5.1	6.0	6.7
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	0.0	11.3	91.2										35.4	54.3	68.4			
	Mid-year / Final - 100.0	0.7	19.2	93.8				0.7	59.5	94.2				0.0	37.2	97.1			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	2.0	0.0	0.0	0.0	1.0	0.0	0.0	0.0	2.0	0.0	0.0	1.0	0.0	3.0	0.0	1.0	1.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	95.0	89.1	87.3	91.0	91.0	92.3	84.5	85.3	87.3	90.5	92.4	87.6	87.2	95.2	92.1	87.3	89.7	91.2
	Gatekeeper 100.0	63.4	63.7	67.4	73.6	63.6	67.9	66.7	40.7	64.2	74.4	72.4	65.2	65.3	67.3	65.3	66.3	65.8	69.8
Out-of-cell hours	11.9	11.8	11.8	11.8	11.8	11.8	11.8	11.8	11.8	11.8	11.9	11.8	11.8	11.9	11.8	11.9	11.9	11.8	11.9
% of prisoners involved in employment	69.8	67.7	66.2	66.6	69.6	68.4	70.7	66.5	65.2	65.1	62.7	64.6	64.4	63.3	65.4	65.3	64.1	66.5	62.2
% of prisoners enrolled in education	39.2	43.1	36.7	43.8	30.3	30.5	31.6	24.7	41.9	33.1	36.0	30.3	26.3	35.8	31.7	36.6	38.8	36.2	31.1
% of prisoners enrolled in clinical intervention programs	14.3	12.0	14.5	13.0	13.2	12.7	16.2	9.6	11.9	12.3	8.3	12.9	16.3	4.9	14.5	15.9	10.2	18.3	15.4
Skills Training – Average number of Use of Force skills per uniformed officer	3.4	n/a	3.0	2.8	3.0	2.6	2.7	2.6	2.6	2.7	3.1	3.5	3.7	3.8	4.0	4.1	4.3	4.2	4.4
Skills Training – % of uniformed staff trained in Grievance	71.8	63.4	70.5	71.1	69.6	69.8	71.6	70.3	70.9	75.9	62.8	72.4	73.6	74.2	71.2	72.6	73.1	76.7	80.4

Table 57 Prison performance indicators: Eastern Goldfields (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	Nil	0.0	1.1	0.0	0.0	0.0	1.1	0.0	2.2	0.0	0.0	0.0	0.0	0.0	1.1	1.1	3.2	n/a	n/a
% of staff assaulted in prisons	Nil	0.0	0.0	0.0	1.1	1.1	2.1	1.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			1.0			0.0			0.0			1.0			1.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			2.0			2.0
Number of positive drug tests that result in a charge being laid (not DPT)	1	0.0	3.0	0.0	6.0	0.0	5.0	2.0	0.0	2.0	0.0	2.0	3.0	2.0	6.0	1.0	0.0	0.0	0.0

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14		
% of eligible prisoners case managed	100	93.1	100.0	96.4	100.0	96.2	100.0	100.0	100.0	97.1	100.0	93.9	100.0	100.0	100.0	100.0	97.2	90.6	100.0		
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	100.0	100.0	100.0	100.0	100.0	92.9	96.3	100.0	100.0	100.0	100.0	93.3	100.0	100.0	100.0	92.9	100.0	100.0		
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	97.5	97.5	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	98.7	98.6	100.0		
	Initial IMP 100.0	100.0	100.0	94.5	100.0	100.0	98.1	95.6	97.6	97.6	98.0	100.0	100.0	97.8	96.4	100.0	98.1	97.9	100.0		
Average annual leave liability per staff member (wks)	3.8	4.4	5.2	4.0	4.2	4.0	3.8	3.4	3.9	3.8	3.6	4.0	4.4	4.8	4.6	4.9	5.1	3.9	3.3		
Average long service leave liability per staff member (wks)	2.0	2.1	2.5	2.0	2.2	2.1	2.4	1.9	2.0	2.0	2.3	2.2	2.2	2.0	2.2	2.0	2.7	2.2	2.0		
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 6.2	5.2	5.9	6.3	7.2	12.4	6.2	2.8	8.7	5.6	4.9	5.5	10.5	9.5	8.4	4.5	7.4	5.8	7.0		
	Workers' Comp 0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	1.3	1.2	0.0	0.0		
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	0.0	0.0	85.9										0.0	19.7	78.7					
	Mid-year / Final - 100.0	-	2.4	100.0										-	-	50.0	n/a	n/a	n/a		
Number of emergency management exercises conducted	6 per year (minimum)	0.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0	0.0	1.0	1.0	0.0	2.0	2.0	1.0	1.0	1.0	0.0		
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	93.8	100.0	86.2	94.9	100.0	100.0	93.7	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	87.2		
	Gatekeeper 100.0	96.9	100.0	100.0	100.0	100.0	100.0	93.7	93.7	95.2	95.2	96.7	100.0	100.0	100.0	100.0	100.0	100.0	82.1		
Out-of-cell hours	13.6	13.1	13.1	13.4	13.0	13.3	13.6	13.7	13.5	13.6	13.7	13.5	13.5	13.5	13.4	13.5	13.4	13.3	13.5		
% of prisoners involved in employment	80.0	76.7	77.7	80.0	80.2	71.1	78.4	74.2	79.5	76.1	69.3	71.7	71.1	77.5	75.3	81.7	69.0	71.1	67.0		
% of prisoners enrolled in education	55.3	47.4	48.9	62.3	61.2	49.3	62.3	58.9	38.0	55.9	54.8	51.2	53.4	55.9	42.4	51.9	63.0	64.6	55.0		
% of prisoners enrolled in clinical intervention programs	7.5	0.0	0.0	0.0	11.1	10.9	0.0	0.0	9.8	0.0	7.5	7.5	16.3	0.0	0.0	7.9	7.5	7.1	0.0		
Skills Training – Average number of Use of Force skills per uniformed officer	3.5	n/a	2.2	2.3	2.7	2.7	3.1	3.1	3.2	3.2	3.2	3.3	3.3	3.1	3.3	3.2	3.7	3.5	2.5		

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Skills Training – % of uniformed staff trained in Grievance	80.9	50.0	53.3	55.2	72.9	74.1	66.1	81.0	81.0	82.3	82.3	73.8	72.6	71.4	72.6	69.2	75.0	75.0	57.7

Table 58 Prison performance indicators: Greenough (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	0.4	1.0	0.3	0.7	1.7	0.6	0.7	1.7	0.0	1.3	0.3	1.4	0.3	0.7	0.3	1.0	2.4	n/a	n/a
% of staff assaulted in prisons	Nil	0.3	0.0	0.0	1.0	0.0	0.0	0.0	0.3	0.0	0.0	0.0	0.0	0.3	1.3	0.3	0.3	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			1.0			1.0			0.0			0.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			1.0			0.0			0.0			0.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	2	1.0	7.0	7.0	4.0	5.0	7.0	2.0	1.0	0.0	1.0	3.0	2.0	0.0	2.0	3.0	0.0	0.0	0.0
% of eligible prisoners case managed	100.0	97.7	97.8	98.3	97.8	97.7	97.7	97.8	95.5	95.1	98.7	99.4	99.4	98.8	100.0	100.0	98.8	100.0	97.0
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	97.8	98.1	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	MAP - Sentenced 100.0	100.0	99.6	100.0	100.0	100.0	99.6	100.0	99.6	100.0	100.0	100.0	99.6	100.0	100.0	100.0	100.0	100.0	100.0
	Initial IMP 100.0	100.0	99.5	100.0	98.3	99.5	97.7	99.5	99.5	98.5	95.5	97.6	97.4	99.5	99.5	100.0	99.5	96.6	96.7
Average annual leave liability per staff member (wks)	3.1	3.4	3.4	3.3	3.7	3.4	3.4	3.2	3.4	3.2	3.0	3.3	3.4	3.6	3.5	3.3	3.4	3.3	3.1
Average long service leave liability per staff member (wks)	3.9	4.4	4.4	4.5	4.4	4.0	4.0	4.0	4.2	4.1	4.1	4.4	4.3	4.2	4.1	4.1	4.3	4.3	4.1
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 9.0	11.4	12.0	12.0	10.6	7.2	8.3	7.7	5.8	9.7	7.3	11.0	10.3	8.2	7.5	9.5	7.5	8.2	8.4
	Workers' Comp 0.9	1.2	0.8	1.0	2.3	1.0	1.0	1.0	0.9	1.0	0.0	0.0	0.0	4.3	2.3	5.7	4.7	3.5	3.8
% of initiated PADS agreements & completed mid-year / final reviews	Initiated - 100.0	5.7	33.7	82.2										16.8	67.9	96.2			
	Mid-year / Final - 100.0	11.9	47.1	96.0										6.9	30.7	97.0			

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Number of emergency management exercises conducted	6 per year (minimum)	2.0	0.0	0.0	0.0	0.0	1.0	1.0	3.0	0.0	2.0	0.0	1.0	1.0	0.0	0.0	0.0	1.0	1.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	100.0	100.0	93.7	96.2	99.4	100.0	88.3	96.8	97.4	99.4	100.0	93.1	96.3	96.3	94.5	87.8	96.3	97.5
	Gatekeeper 100.0	50.3	49.4	49.4	48.1	46.9	46.9	46.9	55.1	55.1	54.7	55.4	59.7	59.0	59.0	57.9	57.9	59.4	58.6
Out-of-cell hours	12.0	11.8	11.6	11.7	11.5	11.7	11.9	11.6	11.6	11.6	11.6	11.6	11.8	11.8	11.9	11.7	11.9	11.6	11.9
% of prisoners involved in employment	100.0	99.7	98.6	100.0	96.8	100.0	100.0	99.0	99.4	100.0	100.0	100.0	100.0	91.2	91.5	93.1	86.9	92.4	96.1
% of prisoners enrolled in education	39.4	40.9	28.8	27.0	36.6	39.4	30.2	42.6	40.9	33.6	42.1	37.5	40.9	49.8	39.7	43.3	42.0	38.8	39.4
% of prisoners enrolled in clinical intervention programs	14.0	7.6	7.4	11.3	14.3	10.9	14.6	11.7	11.1	18.3	12.2	14.2	23.3	13.4	14.1	39.2	26.7	28.7	23.5
Skills Training – Average number of Use of Force skills per uniformed officer	5.5	n/a	5.9	5.9	5.9	5.7	5.8	4.8	5.1	5.2	5.1	5.2	5.2	5.3	5.3	5.2	5.3	5.3	5.3
Skills Training – % of uniformed staff trained in Grievance	99.3	99.4	100.0	100.0	100.0	96.3	95.7	95.7	95.5	100.0	98.7	100.0	100.0	98.8	98.8	97.0	97.0	98.8	98.8
% of eligible prisoners approved for Prisoner Employment Program (PEP)	1.7	n/a	n/a	n/a	n/a	n/a	n/a	1.4	2.8	3.0	3.3	3.5	4.0	1.9	0.0	0.0	0.0	0.0	0.0
% of prisoners approved for participation in Section 95 activity	22.1	23.7	22.8	20.3	20.0	19.2	19.9	17.3	19.4	17.3	16.7	17.9	15.9	70.1	76.1	76.4	75.3	75.6	78.8

Table 59 Prison performance indicators: Hakea (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	1.3	1.8	1.9	1.3	2.2	2.5	1.7	1.6	1.2	1.7	1.7	1.3	0.6	1.3	1.1	1.7	0.9	n/a	n/a
% of staff assaulted in prisons	Nil	0.4	0.0	0.5	0.1	0.1	0.3	0.0	0.0	0.2	0.1	0.4	0.7	0.2	0.2	0.0	0.4	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			2.0			2.0			1.0			1.0			3.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			1.0			0.0			0.0			1.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	13	24.0	32.0	18.0	25.0	12.0	17.0	11.0	12.0	16.0	12.0	14.0	8.0	12.0	12.0	16.0	12.0	10.0	11.0
% of eligible prisoners case managed	100.0	13.4	11.0	11.5	14.1	16.9	20.6	16.7	54.1	50.7	75.6	65.8	59.7	33.8	40.3	48.1	28.6	27.6	26.3

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	n/a																	
	MAP - Sentenced 100.0	98.5	96.6	94.7	94.6	96.9	93.3	93.9	95.9	91.1	94.4	90.2	88.5	96.1	89.5	94.8	95.5	90.1	86.0
	Initial IMP 100.0	90.8	96.3	86.7	91.7	87.3	81.6	77.5	73.5	60.8	59.3	69.1	52.2	49.6	55.3	38.4	49.5	51.4	52.0
Average annual leave liability per staff member (wks)	4.8	5.1	5.2	5.2	5.1	5.1	4.9	4.8	4.9	4.9	5.0	5.0	5.2	5.4	5.2	5.0	5.2	5.1	4.8
Average long service leave liability per staff member (wks)	4.6	4.7	4.8	4.8	5.0	5.0	5.0	5.2	5.1	5.0	5.0	5.0	4.9	4.9	4.7	4.7	4.7	4.7	4.5
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 10.1	12.6	12.3	10.1	10.1	9.9	12.9	9.4	10.0	9.6	12.3	14.8	13.5	9.3	6.5	8.5	9.6	9.6	9.8
	Workers' Comp 2.9	2.6	2.3	3.6	4.5	4.7	3.6	4.3	3.7	3.5	3.7	2.5	1.9	3.8	1.5	3.5	4.3	4.2	5.0
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	0.0	24.5	55.3										55.0	73.3	88.6			
	Mid-year / Final - 100.0	0.0	37.5	62.6				0.0	0.0	87.5				10.5	60.3	66.1			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	0.0	0.0	1.0	1.0	0.0	0.0	4.0	6.0	1.0	0.0	4.0	0.0	0.0	0.0	2.0	1.0	1.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	85.1	88.6	82.8	81.8	83.5	83.5	85.8	86.1	78.6	80.9	89.8	88.4	57.4	57.3	68.3	71.3	68.3	64.5
	Gatekeeper 100.0	86.4	86.1	86.1	88.9	88.4	88.4	86.6	85.6	84.5	85.2	85.2	85.7	86.2	82.3	80.8	0.0	80.6	89.1
Out-of-cell hours	11.1	10.8	10.8	10.9	10.9	10.9	11.0	10.9	11.0	10.9	11.1	10.7	10.7	10.3	10.6	10.9	10.2	10.6	10.6
% of prisoners involved in employment	54.6	53.8	53.7	53.2	55.3	56.2	50.1	50.7	52.4	50.8	50.4	48.8	48.8	49.3	51.4	48.8	49.7	47.2	46.5
% of prisoners enrolled in education	21.3	28.2	20.6	19.8	17.7	18.3	19.0	15.5	18.9	21.2	19.8	17.3	17.0	17.4	14.6	15.7	13.7	20.7	15.5
% of prisoners enrolled in clinical intervention programs	3.6	2.4	3.7	3.8	3.7	3.7	2.3	3.4	3.4	3.4	3.2	2.8	2.7	1.9	4.0	4.0	2.2	2.0	2.0
Skills Training – Average number of Use of Force skills per uniformed officer	3.2	n/a	2.8	2.6	3.1	3.0	2.7	3.2	2.5	2.7	2.9	3.1	3.2	2.8	2.1	2.3	2.9	2.8	2.8
Skills Training – Percentage of uniformed staff trained in Breathing Apparatus	23.1	21.7	21.8	22.3	22.8	19.7	21.4	23.3	22.9	19.0	19.4	19.1	18.8	24.5	23.7	24.3	24.1	24.3	22.9

Table 60 Prison performance indicators: Karnet (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	
% of prisoners assaulted in prisons	0.0	0.0	0.3	0.0	0.0	0.3	0.0	0.3	0.0	0.0	0.3	0.0	0.3	0.0	0.0	0.6	0.0	n/a	n/a	
% of staff assaulted in prisons	Nil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.3	n/a	n/a	
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			0.0			0.0			0.0			0.0			n/a	
Number of prisoners who escape or are unlawfully released from custody	Nil			2.0			1.0			0.0			0.0			1.0			0.0	
Number of positive drug tests that result in a charge being laid (not DPT)	3	4.0	4.0	3.0	5.0	5.0	5.0	7.0	3.0	4.0	6.0	6.0	6.0	2.0	7.0	3.0	5.0	4.0	0.0	
% of eligible prisoners case managed	100.0	99.7	100.0	100.0	98.7	99.7	97.3	100.0	100.0	99.3	99.6	98.9	100.0	100.0	95.7	99.3	99.7	100.0	99.0	
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	n/a																		
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
	Initial IMP 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	99.7	100.0	100.0	100.0	100.0	100.0	99.7	99.7	
Average annual leave liability per staff member (wks)	5.9	6.9	6.8	6.8	6.5	6.3	6.2	6.3	6.2	6.1	5.8	5.9	6.1	6.1	6.1	6.2	6.1	5.9	5.8	
Average long service leave liability per staff member (wks)	4.9	5.1	5.3	5.5	5.4	5.2	5.3	5.2	5.1	5.0	5.0	5.0	4.9	4.6	4.6	4.5	4.4	4.7	4.8	
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 8.0	6.1	7.0	12.1	10.0	10.8	11.5	11.6	9.2	10.5	9.6	9.8	7.6	11.7	3.4	10.0	7.7	4.9	1.6	
	Workers' Comp 0.5	0.4	0.7	1.1	0.0	0.0	0.0	1.9	1.2	0.8	1.9	1.3	2.8	4.2	3.3	3.3	5.1	5.0	5.4	
% of initiated PADS agreements & completed mid-year / final reviews	Initiated - 100.0	7.3	17.3	83.3										38.3	72.0	100.0				
	Mid-year / Final - 100.0	7.2	22.6	88.4										20.3	45.1	97.7				
Number of emergency management exercises conducted	6 per year (minimum)	1.0	0.0	0.0	0.0	1.0	0.0	1.0	0.0	0.0	2.0	0.0	1.0	0.0	0.0	2.0	1.0	0.0	2.0	
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	96.9	96.2	96.9	99.2	95.6	94.2	95.6	95.0	95.7	93.7	95.1	92.3	90.8	95.7	95.0	93.5	93.5	95.1	

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
	Gatekeeper 100.0	97.7	96.2	97.7	100.0	97.0	97.1	97.1	93.6	94.3	93.7	96.5	96.5	97.2	97.9	100.0	100.0	100.0	97.9
Out-of-cell hours	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0
% of prisoners involved in employment	100.0	100.0	100.0	100.0	100.0	100.0	98.7	100.0	100.0	96.3	90.7	92.0	97.4	97.1	91.2	90.5	91.5	93.3	84.9
% of prisoners enrolled in education	55.3	52.9	49.8	68.7	52.4	48.1	41.3	36.5	44.2	52.3	46.7	53.9	56.7	50.7	47.1	45.4	48.3	52.0	50.9
% of prisoners enrolled in clinical intervention programs	26.9	20.5	24.9	24.6	24.4	20.6	28.6	24.7	25.3	35.0	25.9	19.5	19.8	15.0	34.3	16.8	21.6	35.8	35.9
Skills Training – % of uniformed staff trained in Grievance	95.4	95.4	94.7	88.3	93.1	91.9	93.4	94.1	80.1	85.8	92.3	97.2	94.4	69.7	68.1	57.6	46.8	46.8	40.1
% of prisoners completing a traineeship	20.8	22.4	22.0	22.1	18.4	17.1	19.8	17.6	18.9	17.6	13.9	16.9	20.4	20.8	20.3	22.4	19.4	22.5	22.3
% of prisoners approved for participation in Section 95 activity	43.8	37.1	37.7	38.4	38.4	38.3	39.3	37.8	36.2	42.6	42.4	44.4	44.5	46.2	43.5	45.0	41.1	36.8	33.1

Table 61 Prison performance indicators: Pardelup (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	Nil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a
% of staff assaulted in prisons	Nil	0.0	1.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			0.0			0.0			0.0			0.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	0	2.0	0.0	1.0	2.0	1.0	2.0	1.0	1.0	0.0	0.0	0.0	0.0	1.0	1.0	0.0	4.0	0.0	0.0
% of eligible prisoners case managed	100%	100.0	100.0	98.5	100.0	100.0	100.0	100.0	100.0	100.0	100.0	98.6	100.0	100.0	100.0	100.0	100.0	100.0	98.7
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	n/a																	
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Initial IMP 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Average annual leave liability per staff member (wks)	4.1	5.3	5.6	4.6	4.9	4.2	4.3	4.1	4.1	4.1	4.2	4.1	4.5	4.9	4.3	4.0	4.9	4.6	4.3

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Average long service leave liability per staff member (wks)	3.4	3.6	4.9	3.5	3.9	3.8	3.7	3.9	4.6	4.3	2.8	3.1	3.0	3.2	2.6	2.9	4.4	3.9	3.6
Average hours of personal leave and workers comp. taken per staff member	Pers.Lve 7.6	8.3	3.9	13.4	5.6	5.3	7.4	5.6	9.5	7.6	8.6	16.5	5.4	6.9	7.1	5.7	6.6	12.3	8.9
	Workers' Comp 0.3	0.0	0.0	0.0	0.0	4.1	4.8	4.6	1.8	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	0.0	56.1	73.2										50.0	50.0	100.0			
	Mid-year / Final - 100.0	16.7	72.2	100.0				16.7	16.7	100.0				11.4	45.9	100.0			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	0.0	1.0	0.0	0.0	0.0	1.0	0.0	1.0	1.0	1.0	1.0	1.0	0.0	1.0	2.0	0.0	1.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	90.0	90.0	87.1	81.3	87.1	90.0	86.7	90.0	86.7	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Gatekeeper 100.0	86.7	80.0	77.4	78.1	80.6	80.0	73.3	73.3	70.0	74.1	82.1	82.8	89.7	83.9	96.8	96.8	100.0	94.1
Out-of-cell hours	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	16.9	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0	17.0
% of prisoners involved in employment	100.0	98.7	98.7	98.7	97.6	100.0	100.0	97.6	100.0	98.8	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	98.8
% of prisoners enrolled in education	75.6	77.4	56.6	67.3	79.2	87.7	82.2	57.1	73.6	67.9	65.3	69.0	76.7	78.8	76.7	81.0	74.0	83.0	63.1
Skills Training – Average number of Use of Force skills per uniformed officer	2.5	n/a	2.3	2.0	1.9	2.1	2.0	2.2	2.0	2.0	2.6	2.5	2.5	2.8	2.6	2.8	2.8	2.9	3.5
% of eligible prisoners approved for Prisoner Employment Program (PEP)	8.6	n/a	n/a	n/a	n/a	n/a	n/a	8.6	8.9	7.1	9.1	1.9	1.9	2.0	7.8	11.8	12.2	10.2	12.0
% of prisoners completing a traineeship	14.6	15.0	14.1	16.8	15.3	17.5	14.6	12.6	11.7	11.9	11.5	12.3	10.2	7.7	7.8	8.0	6.2	6.3	6.2
% of prisoners leaving custody with accommodation	Parole 100.0	75.0	100.0	100.0	33.3	50.0	n/a	62.5	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	50.0	0.0
	Freedom 100.0	75.0	100.0	100.0	33.3	100.0	100.0	50.0	100.0	100.0	100.0	80.0	100.0	100.0	85.7	100.0	66.7	100.0	100.0
Skills Training – Percentage of uniformed staff trained in Grooming	100.0	33.3	86.7	83.9	81.3	96.8	100.0	100.0	83.3	80.0	100.0	100.0	100.0	100.0	93.5	93.5	100.0	100.0	100.0
Total hours prisoners engaged in community work (Section 95)	1,000	927.0	755.0	495.0	539.0	365.0	206.0	481.0	552.0	458.0	671.0	367.0	853.0	673.0	228.0	596.0	741.0	681.0	685.0

Table 62 Prison performance indicators: Roebourne (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	0.0	0.0	0.7	0.0	0.6	0.6	0.0	0.7	0.0	0.6	0.0	0.0	0.0	0.0	0.6	0.0	0.0	n/a	n/a
% of staff assaulted in prisons	0.0	0.7	0.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.6	0.6	0.0	0.0	0.5	0.0	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			0.0			0.0			0.0			0.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			2.0			0.0			0.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	1.0	3.0	0.0	6.0	0.0	1.0	1.0	2.0	0.0	1.0	0.0	0.0	1.0	1.0	2.0	3.0	0.0	2.0	0.0
% of eligible prisoners case managed	100.0	100.0	100.0	100.0	98.0	100.0	100.0	97.8	97.6	100.0	100.0	97.8	93.1	100.0	97.1	100.0	98.4	100.0	98.3
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	99.1	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Initial IMP 100.0	95.6	100.0	98.8	97.6	100.0	100.0	96.2	96.1	97.4	96.0	96.2	96.8	92.2	98.0	98.0	97.8	93.3	96.6
Average annual leave liability per staff member (wks)	5.0	5.7	5.8	5.3	5.7	5.7	5.7	5.6	5.6	5.2	4.9	5.0	5.7	5.4	5.6	4.9	5.6	4.8	5.1
Average long service leave liability per staff member (wks)	4.1	4.6	4.6	4.6	4.9	4.8	5.0	5.4	4.7	4.1	4.1	4.2	4.3	4.2	3.6	3.5	4.4	4.1	4.0
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 10.2	12.3	12.0	8.3	8.7	13.3	19.1	13.1	9.2	5.8	7.7	9.9	9.9	10.8	8.0	8.4	9.0	8.5	10.4
	Workers' Comp 1.0	2.7	0.0	0.5	0.0	0.0	0.0	0.0	3.0	3.9	2.8	5.0	7.8	4.5	3.7	3.5	2.5	2.0	2.2
% of initiated PADS agreements & completed mid-year / final reviews	Initiated - 100.0	0.0	16.5	67.5										14.5	37.8	95.9			
	Mid-year / Final - 100.0	11.3	42.5	94.3				8.8	35.3	100.0				0.0	0.0	98.7			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	3.0	1.0	2.0	1.0	1.0	0.0	2.0	0.0	0.0	3.0	0.0	0.0	0.0	0.0	0.0	4.0	3.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	97.3	89.2	90.4	90.4	86.8	89.2	89.2	88.0	85.5	85.5	85.5	89.6	92.0	93.2	93.2	100.0	98.6	100.0
	Gatekeeper 100.0	78.7	74.3	75.3	75.3	72.4	74.3	74.3	73.3	78.9	78.9	78.9	77.9	80.0	81.1	81.1	88.9	89.0	90.3

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Out-of-cell hours	12.0	11.9	11.9	11.8	11.9	11.9	11.9	11.9	11.9	11.8	11.9	11.9	11.9	11.9	11.8	11.9	11.9	11.8	11.9
% of prisoners involved in employment	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	98.8	90.6	100.0	97.6	95.9	91.1
% of prisoners enrolled in education	30.9	33.2	27.7	24.4	24.3	26.5	16.1	30.9	54.0	38.5	30.9	38.7	24.6	27.1	21.8	32.2	27.6	33.5	23.1
Skills Training – Average number of Use of Force skills per uniformed officer	3.4	n/a	2.9	3.1	3.1	3.0	3.1	3.0	3.0	3.2	3.3	3.2	3.0	3.1	3.1	3.1	3.1	3.2	3.3
Skills Training – % of uniformed staff trained in Grievance	67.6	61.3	62.2	63.0	63.0	60.5	62.2	62.2	61.3	60.5	61.3	60.5	59.7	61.3	62.2	62.2	63.9	64.4	65.3

Table 63 Prison performance indicators: West Kimberley (July 2013 to December 2014)

Data from September 2014 onwards includes figures for the Broome facility, which became an annex of West Kimberley in that month. Note, however, that the Department has not adjusted figures in earlier periods, and so the periods from July 2013 to August 2014 do not include Broome.

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	Nil	0.0	1.3	1.3	0.0	0.7	0.0	1.4	0.0	1.9	0.0	0.0	0.7	0.0	0.6	0.0	0.5	n/a	n/a
% of staff assaulted in prisons	Nil	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.6	0.0	0.0	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			0.0			0.0			1.0			0.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			0.0			0.0			0.0			0.0
Number of positive drug tests that result in a charge being laid (not DPT)	0	0.0	1.0	n/a	0.0	0.0	0.0	0.0	2.0	0.0	4.0	2.0	1.0	4.0	0.0	7.0	3.0	0.0	0.0
% of eligible prisoners case managed	100	30.8	26.1	24.3	23.7	2.5	8.4	12.2	6.3	0.0	3.3	18.2	17.6	12.6	13.8	14.7	12.4	12.5	10.5
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	90.9	92.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	MAP - Sentenced 100.0	96.1	99.2	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Initial IMP 100.0	94.8	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	99.1	99.1	95.5	94.9	100.0	100.0	100.0	98.3	97.2
Average annual leave liability per staff member (wks)	5.9	8.7	7.1	6.3	6.2	6.4	6.6	6.0	6.0	6.3	6.0	6.0	6.4	6.3	6.2	6.0	6.7	6.3	5.6

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Average long service leave liability per staff member (wks)	3.4	3.9	3.9	3.7	4.0	4.0	3.9	3.7	3.8	3.9	3.5	3.4	3.5	3.8	3.7	3.7	3.9	3.6	3.3
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 6.0	12.1	10.4	10.7	6.0	1.5	0.4	10.5	7.9	7.7	9.3	9.4	8.5	10.3	6.0	5.9	7.4	12.8	8.9
	Workers' Comp 0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.3	0.8	0.0	0.0	0.5	0.0	1.2	1.2	2.2	1.2	0.7	0.0
% of initiated PADS agreements & completed mid- year / final reviews	Initiated - 100.0	1.0	1.0	89.7										9.0	81.7	99.3			
	Mid-year / Final - 100.0	-	-	98.9				0.0	39.8	100.0				0.0	26.2	100.0			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	0.0	2.0	0.0	0.0	0.0	2.0	0.0	0.0	0.0	2.0	0.0	1.0	1.0	0.0	1.0	2.0	1.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	62.0	71.3	70.4	52.8	73.9	73.1	n/a	21.9	48.9									
	Gatekeeper 100.0	98.7	97.5	96.3	88.8	84.8	83.9	n/a	73.7	73.0									
Out-of-cell hours	11.9	11.7	11.7	11.7	11.7	11.7	11.7	11.7	11.7	11.7	11.7	11.7	11.7	12.1	10.9	11.7	11.7	11.7	11.7
% of prisoners involved in employment	99.2	93.4	81.5	96.1	96.7	100.0	100.0	100.0	100.0	100.0	94.9	83.7	95.3	89.5	88.7	80.4	84.9	90.7	84.1
% of prisoners enrolled in education	45.3	36.7	30.8	47.6	18.0	25.3	37.9	44.4	30.1	34.9	48.6	62.4	55.8	50.8	45.5	46.4	41.5	44.8	30.7
% of prisoners enrolled in clinical intervention programs	8.0	0.0	5.4	5.2	0.0	6.7	6.9	6.9	6.5	6.5	7.0	7.1	13.4	6.3	9.1	17.1	8.3	8.0	7.7
Skills Training – % of uniformed staff trained in Grievance	34.2	31.6	30.0	29.6	27.0	26.1	25.8	n/a	38.0	38.7									

Table 64 Prison performance indicators: Wooroloo (July 2013 to December 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
% of prisoners assaulted in prisons	Nil	0.3	0.0	0.5	0.3	0.8	0.3	0.0	0.0	0.6	0.3	0.3	0.6	0.3	0.3	0.0	0.0	n/a	n/a
% of staff assaulted in prisons	Nil	0.0	0.0	0.0	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	n/a	n/a
Number of occurrences of serious self-harm or attempted suicide	Nil			0.0			0.0			0.0			0.0			0.0			n/a
Number of prisoners who escape or are unlawfully released from custody	Nil			0.0			0.0			1.0			0.0			0.0			0.0

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Number of positive drug tests that result in a charge being laid (not DPT)	5	10.0	8.0	11.0	10.0	8.0	17.0	10.0	1.0	0.0	3.0	10.0	5.0	9.0	1.0	6.0	11.0	16.0	13.0
% of eligible prisoners case managed	100	99.2	98.1	97.5	98.5	99.2	98.0	99.6	98.0	97.6	100.0	99.6	99.2	99.6	99.2	99.6	100.0	100.0	96.6
Prisoner Assessment – Compliance with IMP's and MAP's (%)	MAP - Remand 100.0	n/a																	
	MAP - Sentenced 100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Initial IMP 100.0	99.7	100.0	99.7	99.3	100.0	100.0	99.7	99.3	99.3	99.7	99.4	99.6	99.6	99.7	98.7	98.1	98.1	98.3
Average annual leave liability per staff member (wks)	5.1	5.7	5.6	5.6	5.8	5.5	5.7	5.5	5.6	5.7	5.6	5.8	6.3	6.2	6.1	6.0	6.1	6.0	5.5
Average long service leave liability per staff member (wks)	4.1	4.5	4.4	4.5	4.7	4.6	4.6	4.7	4.7	4.7	4.4	4.3	4.3	4.2	4.0	3.8	4.0	3.9	3.8
Average hours of personal leave and workers comp. taken per staff member	Pers. Lve 12.1	13.8	15.7	11.8	14.1	12.6	13.1	9.5	12.1	15.0	17.6	17.8	16.2	12.6	6.8	6.7	2.8	5.4	8.6
	Workers' Comp 6.0	2.6	4.2	4.2	6.8	6.3	8.1	8.7	9.5	8.1	9.3	9.1	7.7	9.2	6.9	8.4	6.8	6.2	9.6
% of initiated PADS agreements & completed mid-year / final reviews	Initiated - 100.0	-	2.6	85.2									52.1	87.2	100.0				
	Mid-year / Final - 100.0	-	-	92.2				2.9	24.3	97.8				8.1	55.9	100.0			
Number of emergency management exercises conducted	6 per year (minimum)	0.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0	1.0	0.0	0.0	1.0	2.0	0.0	1.0
Skills Training - % of Prison Officers qualified in CPR & trained in Gatekeeper	CPR 100.0	90.6	88.4	87.1	87.9	87.9	87.9	86.2	100.0	92.7	90.4	95.6	93.9	90.8	90.8	97.8	94.9	94.9	84.4
	Gatekeeper 100.0	81.2	81.2	80.7	79.4	79.3	79.3	93.5	92.7	92.7	93.4	94.1	93.9	95.4	96.9	95.6	92.0	89.9	92.2
Out-of-cell hours	15.4	15.3	15.2	15.3	15.3	15.2	15.3	15.3	15.3	15.2	15.3	15.3	15.2	15.3	15.2	15.3	15.3	15.2	15.3
% of prisoners involved in employment	94.0	88.4	90.4	89.9	94.1	89.5	91.6	93.5	93.1	87.7	86.4	88.6	91.1	91.0	90.7	93.6	86.4	86.6	83.3
% of prisoners enrolled in education	52.5	61.7	50.5	52.5	52.9	47.2	43.8	32.7	39.9	45.2	45.4	49.0	45.8	45.5	39.4	40.4	35.6	45.9	39.2
% of prisoners enrolled in clinical intervention programs	18.5	20.2	22.4	21.7	14.8	15.5	18.1	12.7	18.5	18.5	17.4	8.3	14.2	11.4	30.0	29.8	34.5	39.1	39.5

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14
Skills Training – % of uniformed staff trained in Anti-Bullying and Code of Conduct	Anti-Bullying 90.5	76.1	79.0	80.0	79.4	83.6	83.6	84.1	84.7	84.7	88.2	88.9	90.9	90.8	92.4	91.9	89.9	87.7	88.7
	Code of Conduct 45.0	8.0	21.7	29.3	29.1	42.1	42.1	42.8	43.1	43.1	48.5	48.9	51.5	70.0	71.8	70.4	68.8	67.4	73.8

Source: Department of Corrective Services Public Prisons Performance Reports 2014 – 2015.

A5.5.3 Definitions of public prison indicators

Table 65 Individual prison performance indicator definitions

Performance Indicator	Definition
Tier 1 Performance Indicators - applicable to all public prisons	
Percentage of Staff assaulted in Prisons	Assault rates are based on the number of staff who were victims of physical violence by prisoners/periodic detainee in corrective services physical and legal custody. The number of victims of assault divided by the daily average prisoner population and multiplied by 100.
Percentage of Prisoners Assaulted in Prisons	Assault rates are based on the number of prisoners/periodic detainees who were victims of physical violence by prisoners/periodic detainee in corrective services physical and legal custody. The number of victims of assault divided by the daily average prisoner population and multiplied by 100.
Number of Occurrences of Serious Self-Harm or Attempted Suicide	The number of serious self-harms and attempted suicides over the reporting period. Serious self-harm is an act of self-harm, which causes an injury requiring medical treatment and assessment by a medical practitioner resulting in overnight hospitalisation in a medical facility (e.g. prison clinic/infirmary/hospital or a public hospital) and/or requires ongoing medical treatment. Attempted Suicide is an act of serious self-harm that is deliberately initiated and performed by the individual.
Number of Prisoners who Escape or are Unlawfully Released from Custody	The number of escapes by prisoners and periodic detainees from corrective services custody, including escapes from the custody of private service providers under contract to Corrective Services.
Number of Positive Drug Tests that result in a charge being Laid (not DPT)	A positive finding for the purpose of this Indicator is when a prisoner's sample returns a positive result to any drug obtained through a urine sample, not including urine tests conducted during the drug prevalence testing program. The number of prisoner tests with a positive finding that result in a charge being laid divided by the number of drug tests conducted and multiplied by 100.
Percentage of Eligible prisoners Case Managed	The number of prisoners being cased managed divided by the total number of prisoners eligible for case management and multiplied by 100.
Prisoner Assessment – Compliance with MAP Remand (%)	The number of remand prisoners with a Management and Placement checklist completed within 5 days of initial receipt divided by the number of remand prisoners and multiplied by 100.
Prisoner Assessment – Compliance with MAP Sentenced (%)	The number of sentenced prisoners with a Management and Placement checklist completed within 5 days of initial receipt or change of status to sentenced divided by the number of sentenced prisoners and multiplied by 100.
Prisoner Assessment – Compliance with IMP (%)	The number of sentenced prisoners serving an effective sentence of greater than 6 months with an Individual Management Plan completed within 28 of sentencing divided by the total number of sentenced prisoners serving an effective sentence of greater than 6 months and multiplied by 100.
Average Annual Leave Liability per Staff Member (wks)	The number of weeks of annual leave liability divided by the number of staff.

Performance Indicator	Definition
Average LSL Liability per Staff Member (wks)	The number of weeks of long service leave liability divided by the number of staff.
Average number of Hours of Personal Leave taken per Staff Member	The number of personal leave hours divided by the number of staff.
Average number of Hours of Worker Comp taken per Staff Member	The number of hours lost due to workers' compensation divided by the number of staff.
Percentage of initiated Performance and Development System (PADS) agreements	The number of initiated PADS agreements divided by the number of available staff and multiplied by 100.
Percentage of PADS Agreements completed – Mid-Year Review	The number of PADS mid-year reviews completed divided by the number of available staff with PADS agreements in place and multiplied by 100.
Percentage of PADS Agreements completed – Final Review	The number of PADS final reviews completed divided by the number of available staff with PADS agreements in place and multiplied by 100.
Number of Emergency Management Exercises conducted (average per facility)	The number of desktop and live Emergency Management Exercises conducted.
Percentage of Prison Officers qualified in CPR (12 Month Average)	The number of uniformed staff qualified in CPR on the last day of the reporting period divided by the number of uniformed staff and multiplied by 100.
Percentage of Prison Officers trained in Gatekeeper (12 Month Average)	The number of uniformed staff qualified in Gatekeeper on the last day of the reporting period divided by the number of uniformed staff and multiplied by 100.
Out-of-Cell Hours (Daily Average)	Out-of-cell hours is the time during which prisoners would normally be free to leave their cells irrespective of whether the prisoner exercises that option. The number of hours that prisoners are not confined to their cells (due to regular or irregular lockdowns) divided by the daily average prisoner population and the number of days in the reporting period.
Tier 2 Performance Indicators – prison-specific performance indicators	
Percentage of prisoners involved in employment	The number of prisoners employed divided by those eligible to participate in employment and multiplied by 100.
Percentage of prisoners enrolled in education	The number of prisoners enrolled in education divided by the daily average prisoner population for the period and multiplied by 100.
Percentage of prisoners enrolled in clinical intervention programs	The number of prisoners enrolled in a clinical intervention program divided by the daily average prisoner population and multiplied by 100.
Average Number Use of Force skills per uniformed officer	The number of use of force skills (i.e. aerosol restraint, batons, cell extraction, etc.) obtained by uniformed staff through Use of Force training divided by the total number of uniformed staff.
Percentage of uniformed staff trained in Anti-Bullying	The number of uniformed staff trained in Anti-bullying training divided by the total number of uniformed staff and multiplied by 100.
Percentage of uniformed staff trained in Breathing Apparatus (BA)	The number of uniformed staff trained in Breathing apparatus training divided by the total number of uniformed staff and multiplied by 100.

Performance Indicator	Definition
Percentage of uniformed staff trained in Code of Conduct	The number of uniformed staff trained in Code of conduct training divided by the total number of uniformed staff and multiplied by 100.
Percentage of uniformed staff trained in Grooming	The number of uniformed staff trained in Grooming training divided by the total number of uniformed staff and multiplied by 100.
Percentage of uniformed staff trained in Grievance	The number of uniformed staff trained in Grievance training divided by the total number of uniformed staff and multiplied by 100.
Percentage of eligible prisoners approved for Prisoner Employment Program (PEP)	The number of prisoners approved for participation in the PEP program divided by the number eligible to participate and multiplied by 100.

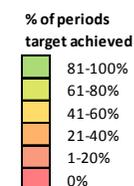
Source: Department of Corrective Services.

A5.5.2 Private prisons

Private prisons report on performance indicators defined in the Department's contract with the prison operator. Prison performance indicators for Acacia and Wandoo prisons over the period from July 2013 to June 2014 are provided below. Indicators and targets for private prisons are different to those for public. Performance against indicators is therefore not comparable between public and private prisons.

Table 66 Prison performance indicators - Acacia (July 2013 to June 2014)

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Percentage of periods target achieved
An Escape	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
A Loss of Control	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
A Death in Custody (other than through natural causes)	0	0	0	0	0	0	0	1	0	0	0	0	0	92%
A Breach of Contractor's obligations to report or provide information	0	0	0	0	1	1	0	0	0	0	0	0	0	83%
A failure to comply with a Performance Improvement Request (PIR)	0	0	0	0	0	0	0	0	0	0	1	0	0	92%
Number of serious assaults on staff, prisoners and others	Less than 6	0	0	0	0	0	0	0	2	2	0	0	1	100%
Number of prisoners committing one or more acts of serious self-harm or attempted suicide	Less than 6	0	2	1	0	0	0	1	0	0	0	0	0	100%
The percentage of Incident Reports completed accurately and in accordance with Departmental requirements	95% or higher	90.54%	98.67%	93.50%	92.42%	97.26%	96.92%	96.30%	95.06%	92.59%	91.08%	94.87%	94.40%	42%
Percentage of random urine sample tests identified as Positive	Less than 10%	6%	12%	8%	10%	16%	10%	12%	12%	20%	20%	12%	8%	25%
Percentage of prisoners providing positive urine samples who are offered support within one week of being found guilty of testing positive to an illicit substance	95% or higher	100%	100%	71.87%	100%	100%	100%	100%	100%	100%	100%	100%	100%	92%

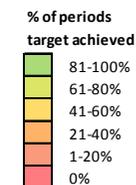


Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Percentage of periods target achieved
Percentage of prisoners Sentence Planning documents reviewed in accordance with the current Department of Corrective Services requirements	95% or higher	100%	100%	99.26%	100%	100%	100%	100%	100%	100%	100%	100%	98.50%	100%
Percentage of prisoners whose program requirements as approved in the Prisoners Individual Management Plans (IMP's) are delivered as scheduled and Program Treatment Reports completed within six weeks of the course completion	95% or higher			98.55%			100%			100%			100%	100%
Percentage of prisoners employed compared to employment positions	95% or higher	99.68%	98.05%	98.68%	98.92%	98.08%	97.78%	99.03%	100%	100%	99.24%	98.68%	98.56%	100%
Percentage of prisoners who have engaged in a Department of Corrective Services Adult Basic Education (ABE) course after receiving 'C' or 'D' score on their literacy assessment following their sentencing	95% or higher			100%			100%			100%			100%	100%
Percentage of total number of Traineeships filled	95% or higher			100%			100%			100%			100%	100%
Percentage of prisoners identified with chronic disease, substance dependency or mental health issues who are provided with a relevant medical discharge plan prior to release	95% or higher	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Percentage of prisoners identified one-week that are managed by PRAG in accordance with the Department of Corrective Services One-week Management System (ARMS) Manual	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Performance improvement requests issued.	0	0	0	1	0	0	0	0	1	1	1	0	0	67%

Source: Department of Corrective Services.

Table 67 Prison performance indicators - Wandoo (July 2013 to June 2014)

Target met
 Target not met
 Cumulative figure; target measured at end of period



Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Percentage of periods target achieved
A Death	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
An Escape	0	0	0	0	0	0	2	0	0	0	0	0	0	92%
An Abscond	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
A Loss of Control	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
The Unlawful Release of a Prisoner	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
The Unlawful Detention of a person	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
A failure to comply with a Performance Improvement Notice	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
A failure to notify and/or report a Critical Incident	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
A failure to obtain a cell certificate	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
A failure to obtain a prison certificate	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
The number of Serious Assaults	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
The number of Serious Self-Harms	0	0	0	0	0	0	0	0	0	0	0	0	0	100%
The percentage of random urine sample tests identifying a Positive Urine Sample Test Results	Less than 10%	0.0%	25.0%	0.0%	0.0%	25.0%	0%	0%	20.0%	0%	0%	0%	0%	75%
The percentage of agreed critical positions fully staffed	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
The percentage of Prisoners in employment or training upon release	75% or higher	100.0%	100.0%	100.0%	100.0%	87.5%	100%	100%	100%	100%	100%	100%	100%	100%
The percentage of Prisoners engaged in Constructive Work or training	90% or higher	97.9%	100.0%	91.9%	100.0%	100.0%	90.9%	94.0%	92.0%	90.7%	91.0%	90.4%	95%	100%

Performance Measure	Target	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Percentage of periods target achieved
The percentage of Prisoners that successfully completed Agreed Course Modules	95% or higher			100.0%			0%			100.0%			100%	75%
The level of agreed Facility maintenance Services achieved	90% or higher	99.5%	99.3%	100.0%	100.0%	100.0%	93.6%	99.0%	95.0%	99.0%	99.0%	97%	99%	100%
The rating obtained from the Customer Satisfaction Survey	90% or higher													n/a
Performance Improvement Notices (PIN) Issued	0	1	0	0	0	0	0	1	0	0	0	0	0	83%

Source: Department of Corrective Services.

A5.6 Prisoner transport

Table 68 Prisoner movements by cost, by prison of departure (2013-14)

Prison	Interprison Metro Transfer	Interprison Regional Transfer	Court Transfer Metro	Court Transfer Regional	Lock-up Clearance Metro	Lock-up Clearance Regional	Medicals & Funerals Metro	Medicals & Funerals Regional	Hospital Sits Metro	Hospital Sits Regional	Total
Monthly Fee	\$114,817	\$440,023	\$330,790	\$424,615	\$54,082	\$700,446	\$175,314	\$180,787	\$176,741	\$90,382	\$2,687,997
Acacia	\$196,492		\$172,614				\$610,685		\$521,531		\$1,501,323
Albany		\$801,548		\$771,842		\$286,694		\$358,332			\$2,218,415
Bandyup	\$104,639		\$527,577		\$302,237		\$402,906		\$104,306		\$1,441,664
Boronia	\$2,355		\$10,383								\$12,738
Broome		\$1,302,785		\$716,491		\$2,632,372		\$160,520		\$345,095	\$5,157,262
Bunbury		\$591,979		\$1,359,179		\$508,230		\$419,945		\$295,796	\$3,175,129
Casuarina	\$305,505		\$604,799		\$12,886		\$744,543		\$799,681		\$2,467,414
Eastern Goldfields		\$537,966		\$1,085,499		\$2,215,363		\$363,196		\$49,299	\$4,251,322
Greenough		\$933,339		\$510,461		\$1,303,155		\$376,167			\$3,123,121
Hakea	\$728,771		\$2,596,352		\$325,666		\$345,633		\$625,837		\$4,622,259
Karnet	\$12,449		\$18,819							\$246,496	\$277,764
Pardelup		\$112,346									\$112,346
Roebourne		\$475,311		\$648,839		\$1,459,533		\$486,423		\$49,299	\$3,119,406
Wandoo	\$1,682		\$3,245								\$4,927
West Kimberley		\$525,003		\$3,075	\$8,200			\$4,864		\$98,599	\$639,741
Wooroloo	\$25,907		\$35,691						\$69,537		\$131,136
Total	\$1,492,617	\$5,720,300	\$4,300,270	\$5,520,001	\$703,071	\$9,105,793	\$2,279,081	\$2,350,234	\$2,297,633	\$1,174,966	\$34,943,964

Source: Department of Corrective Services.

Table 69 Prisoner movements by cost, by prison of departure (2012-13)

Prison	Interprison Metro Transfer	Interprison Regional Transfer	Court Transfer Metro	Court Transfer Regional	Lock-up Clearance Metro	Lock-up Clearance Regional	Medicals & Funerals Metro	Medicals & Funerals Regional	Hospital Sits Metro	Hospital Sits Regional	Total
Monthly Fee	\$111,165	\$367,755	\$320,270	\$559,731	\$38,730	\$271,267	\$167,407	\$186,671	\$189,224	\$175,015	\$2,387,235
Acacia	\$238,212		\$140,283				\$628,049		\$526,320		\$1,532,864
Albany		\$743,936		\$974,478		\$68,291		\$247,614		\$319,015	\$2,353,334
Bandyup	\$85,179		\$695,427		\$103,922		\$409,217		\$240,603		\$1,534,349
Boronia	\$4,331		\$13,686				\$2,188		\$67,670		\$87,875
Broome		\$1,256,746		\$1,197,895		\$1,001,602		\$195,788		\$106,338	\$3,758,369
Bunbury		\$541,701		\$1,364,269		\$318,692		\$310,958		\$425,354	\$2,960,973
Casuarina	\$358,039		\$318,203				\$621,484		\$721,810		\$2,019,536
Eastern Goldfields		\$512,810		\$1,416,558		\$842,257		\$403,093		\$252,554	\$3,427,271
Greenough		\$664,486		\$879,407		\$341,455		\$627,674		\$279,138	\$2,792,160
Hakea	\$606,357		\$2,624,319		\$360,842		\$347,944		\$488,725		\$4,428,186
Karnet	\$8,662		\$11,975							\$385,477	\$406,114
Pardelup		\$57,781		\$14,261						\$93,046	\$165,088
Roebourne		\$469,474		\$865,146		\$682,911		\$443,402		\$106,338	\$2,567,272
Wandoo	\$2,887		\$1,711						\$52,632		\$57,230
West Kimberley		\$166,122		\$4,754				\$11,517		\$132,923	\$315,315
Wooroloo	\$30,318		\$37,637						\$172,934		\$240,888
Total	\$1,445,150	\$4,780,811	\$4,163,511	\$7,276,499	\$503,494	\$3,526,475	\$2,176,289	\$2,426,717	\$2,459,918	\$2,275,198	\$31,034,059

Source: Department of Corrective Services.

Table 70 Prisoner movements by number, by prison of departure (2013-14)

Prison	Interprison Metro Transfer	Interprison Regional Transfer	Court Transfer Metro	Court Transfer Regional	Lock-up Clearance Metro	Lock-up Clearance Regional	Medicals	Funerals and other	Medicals & Funerals Metro	Medicals	Funerals and other	Medicals & Funerals Regional	Hospital Sits Metro*	Hospital Sits Regional*
Acacia	584		266				857	60	917				1.5	
Albany		371		251		22				215	6	221		0
Bandyup	311		813		258		580	25	605				0.3	
Boronia	7		16				0		0				0	
Broome		603		233		202				93	6	99		0.7
Bunbury		274		442		39				238	21	259		0.6
Casuarina	908		932		11		1,099	19	1,118				2.3	
Eastern Goldfields		249		353		170				212	12	224		0.1
Greenough		432		166		100				213	19	232		0
Hakea	2,166		4,001		278		498	21	519				1.8	
Karnet	37		29								10			0.5
Pardelup		52		0										0
Roebourne		220		211		112				294	6	300		0.1
Wandoo	5		5							2	1		0	
West Kimberley		243		1	7					3		3		0.2
Wooroloo	77		55								2		0.2	
Total	4,095	2444	6,117	1,657	554	645	3034	125	3,159	1,270	83	1,338	6.1	2.2

Source: Department of Corrective Services.

Appendix 6 List of submitters

The ERA published an Issues Paper on 11 November 2014, and received 16 public submissions. The Issues Paper was followed by the release of a Discussion Paper on 18 March 2015 (8 public submissions), and a Draft Report on 9 July 2015 (9 public submissions). Submissions were received from the following stakeholders:

Issues Paper

Mr Jim Watmore
 Infrastructure Partnerships Australia
 Uniting Church in Australia (WA)
 Serco Australia
 Serco Watch
 Information Commissioner of Western Australia
 Mr Simon Faulkner (with attached report on the DRUMBEAT Program)
 Community and Public Sector Union / Civil Service Association of Western Australia
 Public Sector Commission of Western Australia
 Western Australian Department of Health
 Social Ventures Australia
 Joint submission from the Western Australian Council of Social Services, Western Australian Association for Mental Health, and Western Australian Network of Alcohol and other Drug Agencies
 Western Australian Prison Officers' Union
 Dr Phillip Toner (for the Western Australian Prison Officers' Union)
 Aboriginal Legal Service of Western Australia

Discussion Paper

Australasian Corrections Education Association
 Baptistcare
 G4S
 Jade Lewis & Friends Inc.
 Mr Michael Burbridge
 The Honourable Mr Peter Abetz, MLA
 Uniting Church in Australia (WA)
 Western Australian Council of Social Services

Draft Report

Western Australian Association for Mental Health
 Western Australian Prison Officers' Union (with attached report from Dr Phillip Toner)
 Professor John Podmore (for the Western Australian Prison Officers' Union)
 Associate Professor Jane Andrew, Dr Max Baker, and Dr Phillip Roberts
 Community and Public Sector Union / Civil Service Association of Western Australia
 Australasian Corrections Education Association
 Kimberley Aboriginal Law and Culture Centre
 Aboriginal Legal Service of Western Australia
 The Honourable Mr Paul Papalia MLA

In addition to the public submission process, the ERA invited some stakeholders to a public roundtable after the release of the ERA's Discussion Paper. The following organisations and individuals were represented at the roundtable:

Public Roundtable

Aboriginal Legal Service of Western Australia
Community and Public Sector Union / Civil Service Association of Western Australia
Developmental Disability Western Australia
G4S
Infrastructure Partnerships Australia
Office of the Inspector of Custodial Services
Outcare (WA)
Professor Richard Harding
Serco Australia
Western Australian Prison Officers' Union
Western Australian Association for Mental Health
Western Australian Council of Social Services
Western Australian Network of Alcohol and other Drug Agencies

Appendix 7 Communication from the Commissioner of the Department of Corrective Services



Government of Western Australia
Department of Corrective Services

Office of the Commissioner

Our reference: CR2015/001148

Greg Watkinson
Chief Executive Officer
Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington St
PERTH WA 6000

Dear Mr Watkinson,

Inquiry into the Efficiency and Performance of Western Australian Prisons

On 4 August 2015 I wrote to Professor King confirming that in some instances the Department would be unable to provide the ERA with statistical information due to various factors. These include the accuracy of statistical information; data fields that are not collected "by prison" or "by offender"; veracity of data, systems and processes. The inconsistency of data capture and recording across systems requires a lengthy process to assure the reliability of data.

In relation to your recent request for data, by gender, Aboriginality and sentence status, I can advise that the data is currently collected from multiple sources, some of which are manual. The Department has not previously interrogated offender systems for such data and do not currently have the skills required to extract the data at this level of granularity.

These issues will be addressed through the work of the Knowledge and Information Technology Directorate (KIT). The Directorate is strengthening systems and processes to build business intelligence capability that will improve the Department's reporting of accurate data to inform decision making.

I look forward to receiving the findings of your inquiry into the performance of prisons in WA.

Yours Sincerely,

James McMahon
Commissioner

141 St Georges Terrace Perth Western Australia 6000
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SECRET

Appendix 8 Glossary

ABE	Adult Basic Education: remedial or school-level education for adults, usually with an emphasis on the literacy, numeracy, and social skills needed to function within the community or to gain employment. ⁴⁶³
ACEA	Australasian Corrections Education Association.
ALSWA	Aboriginal Legal Service of Western Australia.
ACCO Notice	Assistant Commissioner Custodial Operations Notices are issued to prison Superintendents to announce operational changes in prisons. ACCO Notices are typically detailed in nature and are issued on an <i>ad hoc</i> basis, often in response to an incident.
Adult Custodial Rules	Adult Custodial Rules dictate how prisons conduct certain activities or processes. This includes processes such as how to conduct visits and issue medication to prisoners.
Andrew <i>et al</i>	Associate Professor Jane Andrew, Dr Max Baker and Dr Philip Roberts.
AIMS	Australian Integration Management Services Corporation.
AOD	Alcohol and other drugs.
Benchmark target	A benchmark target is the expected level of performance for a prison for a particular performance measure. This target is used for assessing the prison's performance for the weighted scorecard.
Commissioning	A strategic-level approach to delivering services, focusing on the Government's broad objectives. In most commissioning processes, public, private, and not-for-profit sector providers all have an opportunity to tender and show how they are best placed to deliver a service.
Community Corrections	Relates to offenders serving their time in the community, either on a community-based sentence (probation), completion of a custodial sentence under community supervision (parole), or on bail while awaiting sentencing.
Compliance Testing Standards	Compliance Testing Standards are the requirements the compliance testing team within the Department uses to check public prisons. Compliance Testing Standards are effectively the service standards of public prisons.
Contracting	Establishing a formal, legally binding agreement between the Government and the service provider.
CPSU/CSA	Community and Public Sector Union and Civil Services Association of Western Australia.
Criminogenic	Relating to the causes of criminal behaviour.
Custodial sentence	A sentence that requires the offender to be incarcerated in prison or another secure facility.
DAP	Daily Average Population.

⁴⁶³ Definition provided by the Queensland Government Department of Education and Training.

DCS, the Department	Department of Corrective Services.
Desistence	Desistence refers to the process of a former prisoner ceasing offending. Desistence from offending typically occurs over time.
Effectiveness	The extent to which an entity or activity achieves its desired outcomes.
Efficiency	Making the best use of time, effort, and money to achieve a desired outcome.
Enterprise Agreement	The <i>Department of Corrective Services Prison Officers' Enterprise Agreement 2013</i> .
ERA, the Authority	Economic Regulation Authority.
HMIP	Her Majesty's Inspector of Prisons.
IMP	Individual Management Plan: an agreement between the Department and the prisoner that defines the prisoner's needs and outlines their requirements and expected behaviours while incarcerated.
Inspector	Inspector of Custodial Services.
KALACC	Kimberley Aboriginal Law and Cultural Centre.
KIT	Knowledge and Information Technology directorate.
KPI	Key Performance Indicator.
LCC	Local Consultative Committee: a committee maintained at each prison to facilitate communication and consultation between the Superintendent and local union representatives regarding workplace issues with a view to resolution at a local level.
MHAOD Services Plan	Western Australian Mental Health, Alcohol and Other Drug Services Plan 2015- 25.
Minister	Minister for Corrective Services.
MOU	Memorandum of Understanding.
Mr Papalia	Mr Paul Papalia MLA – Shadow Minister for Corrective Services.
MQPL Assessment	Measuring Quality of Prisoner Life Assessment: a survey designed to assess a prison's performance in terms of providing an appropriate quality of life to prisoners.
NOMS	National Offender Management Service.
Non-custodial sentence	A sentence that imposes a penalty other than incarceration (for example, a community service order or suspended sentence).

NSQR	National Statistics Quality Review.
Parole	Supervised release of a prisoner, subject to certain conditions, prior to the completion of a sentence.
PCC	Prisons Consultative Committee: a Department-wide committee that includes (among others) the Deputy Commissioner Adult Custodial and the WAPOU President. Representatives from a Local Consultative Committee may refer a workplace matter to the PCC if genuine efforts to resolve an issue have been unsuccessful.
Performance category	Performance categories are the broad areas of performance the ERA has recommended measuring. These performance categories are Safety and Security, Rehabilitation, Prisoner Quality of Life and Prison Management.
Performance measure	A performance measure is a quantitative measure used to assess prison performance. An example of a performance measure is the assault rate of prisons.
PRB	Prisoners Review Board
Prison operator	This term refers to both public and private operators of prisons.
Recidivism	The repeating of, or return to, criminal behaviour following release from prison.
Rehabilitation	Reintegration of a former offender into society without a relapse into criminal behaviour.
Remand	Holding a defendant in custody before their trial or sentencing.
Review	The recent Competition Policy Review chaired by Professor Ian Harper.
Ring-fencing	In the context of this report, an operational separation between divisions designed to manage risks of improper influence or conflicts of interest.
ROGS	The Productivity Commission's <i>Report on Government Services</i> .
SAMF	Strategic Asset Management Framework: a Western Australian whole-of-government framework that provides policies and guidelines to improve asset investment planning and management across the State public sector.
Service Level Agreement	A contract or agreement between public sector agencies that precisely defines the nature, scope, and quality of the service to be provided, in measureable terms.
Special Purpose Accommodation	Beds and cells usually used for temporary accommodation for reasons such as solitary confinement, mental health crisis care, and other health concerns.
Superintendent	A Superintendent is responsible for overseeing the operation of a public prison.
ToR	Terms of Reference.
WAAMH	Western Australian Association for Mental Health.
WACOSS	Western Australian Council of Social Services.

WAIRC	Western Australian Industrial Relations Commission.
WANADA	WA Networks of Alcohol and Other Drug Agencies.
WAPOU	Western Australia Prison Officers' Union.