
Submission to the

**Inquiry into the Efficiency and
Performance of Western Australian
Prisons
Draft Report**



WAAMH

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for Mental Health**

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health sector in Western Australia

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1. Introduction

WAAMH thanks the ERA for the opportunity to provide this submission to the draft report of the ERA's inquiry into the efficiency and performance of WA prisons.

WAAMH commends the ERA on the inclusion of rehabilitation and prisoners quality of life as two of the four areas of prison performance that should be measured. We are pleased to note the ERA's statement that a more sophisticated approach to managing offenders and a focus on rehabilitation are likely to represent the best value for money to the Government.

WAAMH welcomes the ERA's attention to the need to more effectively assess and evaluate prisoner needs, plan program responses and evaluate the effectiveness of those programs. WAAMH also supports the recommendations regarding improving information sharing processes and policies with the public and post-release providers.

Our submission does not address many of the key components of the ERA's draft report, such as Service Level Agreements and commissioning, focusing instead on those areas in which WAAMH and its members have experience and expertise.

This submission identifies the need for greater focus on rehabilitation, additional mental health benchmarks, vastly improved mental health care in prisons and a review of prison health governance arrangements. The submission also makes recommendations about prisons' operating philosophy and objectives, Aboriginal prisoners, prison governance and transparency, and the scope of the Inquiry.

2. The rehabilitative aims of prison

WAAMH welcomes the acknowledgment of rehabilitation as a primary objective of the prison system in the draft report. We would strengthen this however - we support ALSWA's position that rehabilitation is the most important objective of the prison system due to the possibility of it having long-term community protection benefits, unlike incarceration, which can provide only short term community safety benefits.¹

The ERA notes that it may cost more to deliver more effective and rehabilitation-oriented prisons, but that this may provide the best value for money to the government. Certainly, the high cost associated with former prisoners returning to prison is well established. The ERA states that this has been recognised in an emphasis on a rehabilitative focus in the draft report. However, we note 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.²

¹ ALSWA submission to draft Report
<https://www.erawa.com.au/cproot/13817/2/ALSWA%20Submission%20to%20ERA%20Draft%20Report.pdf> accessed 26 August 2015

² Recommendation 8: 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 metrics detailed in Table 3.

The nature of the mental health and incarceration relationship strongly indicates the need to effectively engage prisoners in mental health treatment and supports to best enable effective rehabilitation. **We recommend that the ERA include stronger recommendations about the role of mental health services and treatment as a significant contributor to rehabilitation.**

More information about mental health services in prisons can be found in section 3 Benchmarks and section 4 Health Services of this submission.

3. Benchmarks

The ERA identifies the need for benchmarks in the four areas of safety and security, rehabilitation, quality of life for prisoners and prison management.

WAAMH notes that mental health does not fit neatly into these categories; with aspects of mental health care evident in:

- Safety and security - including prisoner self-harm and suicide, prison disturbance caused by the symptoms of mental illness, staff assaults, prisoners assaults, and the use of solitary confinement or restraint in response to these.
- Rehabilitation – for example, when the symptoms of mental illness are a cause or contributor of committing the offence, recidivism is more likely if the person’s mental health needs have not been addressed.
- Quality of life for prisoners – as outlined in our earlier submission with WACOSS and WANADA prison can either cause or exacerbate mental distress and mental illness.³ It is thus essential that the measurement of this aspect of prison performance include measures regarding mental health and wellbeing.

The draft report identifies benchmarks for prisons that are within the control of Superintendents to achieve. The report states “Superintendents are almost solely responsible for the security and safety of their prisons.” Yet, as the report also identifies, the provision of health care is a head office responsibility. Given that mental illness and its effective management may be a significant factor in safety and security, it is not clear how Superintendents are expected to be almost solely responsible for this area.

This example speaks to the complexity of prison organisational arrangements that the ERA itself has identified. Because of the organisational arrangements for the delivery of healthcare and programs, WAAMH is concerned about the ERA’s emphasis on prisons as separate units to the Department of Corrective Services (the Department). This approach is evident in the draft report’s attention to benchmarks for individual prisons, without corresponding strong recommendations on issues that require resolution by the Department as a whole. This approach does not sufficiently

³ WACOSS, WAMH and WANADA, 2014 ‘Submission to the Economic Regulation Authority Prisons Inquiry’

address the solutions needed to improve the health care of prisoners at all stages of their incarceration and we make further comments about this in section 4 Health Services of this submission.

Despite this concern, WAAMH strongly supports the introduction of benchmarks. In particular, we support the identified benchmarks regarding occurrences of serious self-harm or attempted suicide, unnatural deaths including suicide and prisoner health management on release.

However, we are concerned and disappointed about the extent to which mental health is addressed through benchmarks. The draft report identifies some benchmarks for rehabilitation that the Department should *aspire* to measure in time, including physical and mental health benchmarks, stating that these benchmarks cannot currently be applied because the supporting information is not collected or because of the lack of assessment. While we understand these are real limitations, given the overrepresentation of people with mental illness in prison, the need for humane incarceration in custody, and the ERA's own identification of high rates and costs of recidivism, we are of the firm view that this is not sufficient reason for the lack of solid benchmarks in these areas.

We note that the ERA does recommend, "the Department of Corrective Services collect the data required to implement the aspirational benchmarks recommended in Table 4"⁴. **We recommend that this be made a required benchmark, being of the view that the best way to achieve the data collections would be to *require* it.**

As outlined elsewhere in the draft report, improved data would support and enable improved planning and practice; this is a dire need in prison mental health planning and provision.

We recommend the ERA's final report include whole of department benchmarks 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. More information about this issue is addressed in section 4, Health Services, of this submission.

4. Health Services

Mental health issues affecting prisons in Western Australia were outlined in depth in our joint submission with WACOSS and WANADA to this Inquiry and will not be reiterated in this submission.

The ERA draft report notes mental health as an issue of some import. For example, the report refers to the Mental Health Commission's comments that prison may exacerbate unresolved mental health problems⁵, and includes physical and mental

⁴ Economic Regulation Authority, 2015, 'Inquiry into the Efficiency and Performance of Western Australian Prisons Draft Report', Recommendation 9, p. 110

⁵ The draft report references the Mental Health Commission, *The Western Australian Mental Health, Alcohol and other drug services plan 2015-2025*, Perth, Government of Western Australia, 2014, p. 66

health as one of the seven factors (with drug and alcohol dependence as another) that contribute to the likelihood that a prisoner will reoffend on release⁶.

The draft report also identifies that the Department does not plan and allocate services efficiently, with consequences including the cost and quality of prison services being affected, and that service delivery is “highly reactive” to changes in circumstances. WAAMH would like to emphasise as being particularly problematic the delivery of health services within prisons, which the ERA states, “does not appear to be based on an understanding of the aggregate health needs of the prison population”⁷. It is essential that proper health planning occur.

WAAMH commends the ERA’s acknowledgement of mental health, but is disappointed that the ERA does not then make strong recommendations that would improve prison performance of WA prisons in this area. We note in particular, that the recommendations on mental health are weak and do not appear to address those issues raised in our earlier submission nor the recommendations made by other significant government and public reviews⁸.

For example, one of the benchmarks is about what proportion of prisoners with chronic disease, substance dependency or mental health issues are provided with a relevant medical discharge plan *prior to release*. Despite in-prison health needs being well articulated in various reports⁹, the ERA makes no corresponding benchmark for a medical or health plan to address their health needs *during imprisonment*. Additionally, although the draft report includes the *aspirational* metric of the percentage of prisoners whose mental and physical wellbeing has been improved whilst in prison, we urge the ERA to include this as a *required* benchmark. Basic recommendations regarding benchmarks have been included in section 3 of this submission.

More detailed work and consultation is required to develop effective models of mental health care in the justice system. WAAMH notes that significant work is currently underway to develop this. Of note is the further development of strategies in the government’s *The Western Australian Mental Health, Alcohol and other drug services plan 2015-2025* (the 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.

The MHAOD Services Plan includes the following strategies relevant to in-prison mental health:

⁶ Economic Regulation Authority, 2015, ‘Inquiry into the Efficiency and Performance of Western Australian Prisons Draft Report’, Recommendation 9, p. 77

⁷ *Ibid*, p. 54

⁸ Including Stokes, B. (2012) *Review of the admission or referral to and the discharge and transfer practices of public mental health facilities/services in Western Australia*, Prepared for the Department of Health, Government of Western Australia; various reviews of the Office of the Inspector of Custodial Services make large and small mental health recommendations for prisons, a summary of these is provided in Petch E, 2015, ‘Everyone’s responsibility: A Model of Mental Health Care for Western Australian Prisoners 2015, draft 2’, pp 150-153; Mental Health Commission, 2014, *The Western Australian Mental Health, Alcohol and other drug services plan 2015-2025*, Perth, Government of Western Australia

⁹ *Ibid*

By the end of 2017:

12.6.3 commence development of a 70 bed in-prison dedicated mental health, alcohol and other drug service for men and women;

12.6.4 further develop in-prison mental health, alcohol and other drug treatment and support services for men, women and youth;

12.6.5 work with the Department of Corrective Services to develop models of service for in-prison treatment and support services;

By the end of 2020:

12.6.8 continue to develop in-prison mental health, alcohol and other drug treatment and support services for men, women and youth¹⁰

There is a need for commitment of government resources to develop these strategies and enable the provision of good standards of mental health supports and treatment in prison.

We recommend that the ERA consider these strategies for endorsement.

We urge the ERA to recommend the further development of standards for mental health services in mainstream prison units where such specialist care will not be available.

4.1 Draft Model of Care

In response to a request by the Psychiatric Advisory Committee of the Department of Corrective Services Health Services Directorate, Dr Edward Petch, Director, State Forensic Mental Health Services has drafted a model of care for prison mental health services.¹¹ The model describes the essential components of a gold standard comprehensive prison mental health service across five major objectives:

- Identify those who require services and assess their level of need
- Organise appropriate access to care
- Provide assessment, treatment, monitoring and follow up
- Organise transitional care back to the community
- Optimise mental wellbeing and reduce mental health risks in prisons.

The model addresses issues of cost effectiveness¹², argues for a new range of agreed standards and performance monitoring against those, and provides examples of some standards in Appendix 2, among other matters.

¹⁰ Mental Health Commission, 2014, *The Western Australian Mental Health, Alcohol and other drug services plan 2015-2025*, Perth, Government of Western Australia, pp. 70-71

¹¹ Dr Edward Petch, 2015, 'Everyone's responsibility: A Model of Mental Health Care for Western Australian Prisoners 2015, draft 2'

¹² Ibid, pp 49 - 51

The model is currently being consulted on with the Department of Corrective Services, the Department of Health and the Mental Health Commission. We strongly encourage the ERA to actively consult with State Forensic Mental Health Services and the Mental Health Commission in the establishment of more detailed recommendations on mental health services, including benchmarks, for its Final Report.

We urge the ERA to recommend that Government develop a state-wide model of mental health care in prisons.

4.2 Prison Mental Health Governance Arrangements

The mismatched operating philosophy and objectives of prisons and of the health care unit was one of the issues WAAMH has previously identified for the Inquiry¹³. Provision of health care, including mental health services and treatment, should be considered a core activity of the prison system but has not had sufficient attention by government. The Mental Health Commission and the Department of Health do not have responsibility for health care in prisons and the Department's own 2010 review of clinical service provision concluded new organisational arrangements are needed for the provision of effective health care¹⁴.

We urge the ERA to include in its report the need for Government to provide greater clarity about which Department is responsible for the provision of healthcare within prisons and the most appropriate organisational arrangements to achieve contemporary standards of access and care. If this is not addressed in the report, the impact of recommendations to improve prison performance will be of limited benefit.

WAAMH recommends the ERA include in its report a recommendation for a governance review of forensic and prison mental health, with consideration of a unitary governance structure.

Although we anticipate the ERA may consider this recommendation to be beyond the scope of the Inquiry, we submit that healthcare is within the remit of prison efficiency and performance for the reasons outlined in this and our earlier submission. We also submit that such recommendations would be akin to the ERA's recommendation regarding benchmarks for rehabilitation; rehabilitation being subject to similar organisational arrangements as health in that the Department's Head Office holds primary responsibility for it. We further identify that the ERA has made recommendations about organisational arrangements for other areas of the Department's operations.

¹³ WACOSS, WAMH and WANADA, 2014 'Submission to the Economic Regulation Authority Prisons Inquiry'

¹⁴ Department of Corrective Services (2010) *Assessment of Clinical Service Provision of Health Services of the Western Australian Department of Corrective Services*

5. Operating Philosophy and Objectives

WAAMH supports the identification of an operating philosophy and objectives for prisons. **WAAMH recommends that these include the Mental Health Commission's guiding principle for forensic services - that persons in contact with the criminal justice system should receive mental health, alcohol and other drug services equivalent to services available to individuals in the community¹⁵.**

We recommend 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.

The draft report outlined the lack of transparency in the Department's operations and acknowledged the interrelationships between the justice and human services systems. WAAMH is concerned that the Department may consider it appropriate to develop prisons' operating philosophy in a vacuum. **We urge the ERA recommend that the Department consult extensively with other government agencies, relevant NGOs and advocacy bodies in the development of prisons' operating philosophy and objectives.**

In section 4.2, we identified the need for a governance review of prison health care arrangements. Should this proceed, our recommendations about philosophy and objectives in this section of our submission will need review to ensure alignment with any changes to governance arrangements.

6. Aboriginal People

WAAMH is concerned that the report does not sufficiently address the overrepresentation of Aboriginal people in WA prisons, and the need for culturally responsive prison environment, services and programs. WAAMH supports ALSWA's recommendation that the ERA make specific recommendations in regard to the provision of programs, services and interpreters for Aboriginal prisoners¹⁶ and **we recommend the ERA include in its final report specific recommendations about Aboriginal people's access to culturally appropriate mental health services in prison.**

7. Prison Governance and transparency

WAAMH welcomes the ERAs inclusion of recommendations to improve transparency and accountability including the sharing of case management information with contracted organisations such as Outcare.

¹⁵ Mental Health Commission, 2014, *The Western Australian Mental Health, Alcohol and other drug services plan 2015-2025*, Perth, Government of Western Australia, p. 65

¹⁶ ALSWA submission to draft Report, page 8
<https://www.erawa.com.au/cproot/13817/2/ALSWA%20Submission%20to%20ERA%20Draft%20Report.pdf> accessed 26 August 2015

At the round table WAAMH provided feedback that the ERA should address the ‘low hanging fruit’. One specific improvement that would go a long way to improving transparency and public accountability would be the mandated provision of quality data by the Department of Corrective Services, and WAAMH welcomes the ERA attention to this issue. **It is essential that DCS provide data that meets the government’s own draft ‘Whole of Government Open Data Policy’¹⁷ and we recommend the ERA specifically recommends this.**

We note the report’s focus on extensive reforms to organisational arrangements including Service Level Agreements and introduction of commissioning. **We recommend that the ERA’s final report clearly state that its recommendations, which aim to improve transparency in the delivery of public prison services, should still apply should the government choose to stay with current organisational arrangements.**

8. Scope of the Inquiry

The ERA acknowledges the relationship between the justice and human services systems and states its task as to think ‘about the broad costs to society of the prison system, rather than just the narrow costs of delivering the prison system’.

It is clear that prison itself can worsen mental health and has impacts on the good order of prisons. It is also well established that the justice system must provide humane and decent treatment of prisoners, and that mental health treatment can contribute to improved recidivism outcomes.

In light of these issues, WAAMH is deeply disappointed that the draft report makes no recommendations about how both systems could be improved to lessen the impacts of siloed service planning and delivery. In particular, **we recommend the ERA identify ways the Department can address collaboration challenges and integrate its work with the objectives of other human service agencies.**

¹⁷ WA Whole of Government Open Data Policy – Draft
<https://www.dpc.wa.gov.au/Consultation/Pages/WAWholeofGovernmentOpenDataPolicy-Draft.aspx>