

Inspector's Overview

ACACIA: A PRISON WITH A PROVEN TRACK RECORD AND SOLID FOUNDATIONS FOR THE FUTURE

Acacia Prison is situated in Wooroloo, 55 km from the Perth central business district. It is Australia's largest prison and the first in this state to have been privately-run. It houses sentenced male prisoners who are rated as medium-security (90% of its prisoners) or minimum-security.

From 2001 to June 2006 Acacia was operated by Australasian Integration Management Services ('AIMS'). After considering its options, including turning the prison over to public sector operation, the then Labor government re-tendered the contract and selected Serco. Serco has operated the prison since 2006 and was recently awarded a contract extension to run to 2021.

This report concludes that:

- Acacia has emerged successfully from a very difficult period and the contract extension was merited.
- The prison is on the cusp of a positive future provided that the momentum is maintained and the matters identified in this report are addressed.
- There is a high degree of accountability in relation to what is expected of Serco and what they are paid, but the Department of Corrective Services ('the Department') is not accountable for the overhead costs it incurs in relation to Acacia.

INSPECTION TIMING AND PROCESS

We are required to inspect prisons once every three years. As we inspected Acacia in late 2013, the next mandated review was late 2016. However, following the 2013 inspection I told all parties that I would be bringing it forward by 12 months for three reasons:

Performance and risk: in 2013, Acacia was in the midst of a huge, high risk expansion project that was generating both stress and risk. Although Serco had responded promptly to our concerns, and the Department's new leadership had implemented some overdue risk mitigation strategies, we could not wait three years to assess how the prison had managed the influx of an additional 400 prisoners.

Value for money: we wanted to assess whether the Department and Serco had intelligently maximised the opportunities presented by expansion. Put bluntly, had public money been well-invested and with an eye to future value for money.

Contract expiry: it was important to offer timely advice to the Minister and the Department of Corrective Services before Serco's contract expired in June 2016.

In mid-November 2015, I provided an 'exit debrief' at the prison, detailing our key findings. Serco staff, management, and corporate executives attended, as did the Commissioner for Corrective Services and his key personnel, and other service providers. Copies of the exit debrief were provided to the Standing Committee on Public Administration and to the Minister. The exit debrief summarised the situation as follows:

Acacia is well poised for its next era. Serco has worked well with [the Department of Corrective Services] to lay excellent foundations for a positive future, foundations that must now be built on. To Serco staff and management, it has been a difficult journey at times in the past three years: well done, be proud, and keep up the good work.

While we did identify areas requiring improvement or development, overall I considered that Serco had achieved all that could reasonably have been expected, and had been impressively innovative and responsive. However, I stressed that with only seven months to run on the contract, there was a very real risk that momentum and opportunity would be lost. Future contract arrangements needed to be finalised as soon as possible.

CONTRACT RENEWAL

In February 2016, it was announced that the government and Serco had negotiated a five year contract extension on revised terms. Our findings fully vindicate that decision. It means that barring some catastrophic event, Serco will continue to run the prison up to June 2021. At that time, the government of the day will need to decide whether to retest the market or to bring the prison into public operation.

The legislation governing the private operation of prisons embeds a three-way accountability and public assurance framework for Acacia. The government's job – through the Department – is to purchase services, to manage the contract, and to monitor the contractor's performance. The contractor's job is to provide the contracted services and to meet contracted Key Performance Indicators. The Inspector's job is to provide independent oversight of both the contractor and the Department, to report to Parliament, and to provide ongoing advice to Ministers and Commissioners.

The government-contractor-inspector framework is strong and has undoubtedly been a significant factor in Acacia's long-term success. It worked appropriately and well in relation to the decision to renegotiate and renew this contract. The main negotiations took place after our November inspection and were matters for the government and the contractor, not us. However, the inspection findings and follow-up advice to the Minister provided assistance and assurance to government. The public should also draw confidence from this process.

THE PRISON AND ITS PRISONERS

The number of prisoners at Acacia grew by 387 from January to March 2015. As significant numbers of prisoners leave Acacia each month (either to release or on transfer to other prisons) this required Acacia to integrate more than 700 new admissions over the three months. This was a very high risk exercise and Serco and the Department (especially Serco, who carried both the daily and reputational risk) are to be commended for ensuring such an impressively safe and timely 'fill'. The result was that Acacia's new accommodation units came on line much faster and much more smoothly than at other prisons [see Chapter 1].

Importantly, the Department and Serco had engaged intelligently and productively when planning for the expansion started in 2010–2011. On viewing the Department's original plans, Serco provided advice as to how they believed the money could be better spent and, to its credit, the Department was receptive to this. This collaboration was good practice, resulting in the much more effective development of a valuable state asset [see Chapter 1].

In mid-2014, Acacia experienced its first escape. It should not have happened, but escapes do occur occasionally from public as well as private prisons. Most importantly, lessons have been learned and weaknesses addressed, with security improving markedly since 2013. Staff and management also deserve credit for continuing to operate a close-to-normal regime without other serious incidents over such a lengthy period [see Chapter 2]. Intelligence gathering and emergency management had improved, and staff had embraced changes that have met resistance at other prisons, including the use of body cameras in high risk areas. There are opportunities for system-wide learning.

Most of the state's prisons hold far more prisoners than they were designed for, as a result of double-bunking existing cells and adding extra accommodation units. But only Acacia has grasped the opportunity to target the needs of different cohorts of prisoners by establishing different 'communities' within the prison. This is something we have long advocated to ensure that resources better target need.

Acacia's communities include young offenders, 'lifers', and protection prisoners. At the time of the inspection, the foundations for these communities had been laid, but they were in the very early stages of development: it is now time for Serco to deliver on their potential [see Chapter 3]. It is also an area that is ripe for developing more robust performance measures (Recommendation 1). Again, there are huge opportunities for system-wide learning.

Despite having been through so much change, staff were generally positive, professional, and resilient. As a result, most areas of the prison were functioning well, with opportunities for further improvement now that the new contract has given Serco some degree of certainty.

We did have some areas of concern, however. One related to management communication and engagement [see Chapter 9]. Poor communication on human resources issues had been compounded by the prison having had three Directors, each with their own unique management and communication styles, in a short period. The succession process – in which the Department as well as Serco were involved – was clumsy and confusing at best. Fortunately, the appointment of a highly-credentialed new Director (starting late May 2016) gives ground for optimism.

Our other main concern related to medical services. Both the level of services provided by the health centre and the culture of the centre had declined markedly since 2010 [see Chapter 6]. Serco accepted there were issues and has established its own independent review of health services. This should provide a basis for Serco to improve the areas for which it is responsible.

However, Serco and the Department need to jointly resolve the issue of mental health services. They have both supported our finding that additional mental health services are required (Recommendation 14), but disagree as to whose responsibility it is. Serco say that under a memorandum of understanding (MoU) between the Department of Corrective Services and the Department of Health, it is a matter for these public sector Departments. The MoU covers the provision of psychiatric services to 'any state prison

(including private prisons)’ and is therefore open to this interpretation. However, the Department’s response to us claims that staffing mental health services is solely a matter for Serco. It is not for me to resolve this disagreement but it must not continue to compromise the duties of care that the state, as well as Serco, owe to Acacia prisoners and staff.

ACCOUNTING FOR PUBLIC MONEY AND UNDERSTANDING COSTS

Direct and indirect costs

The amount that is paid to Serco for operating Acacia is specified in the contract and can be accurately determined. Further, if Serco fail to meet the requirements of the contract it will be subject to financial penalties, about which the Department reports publicly each year.

However, the total cost of running Acacia also includes two sets of ‘indirect’ costs over and above the prison services contract. The first is the maintenance contract which is held by a different company, Sodexo. Again, this is easily quantifiable. The other critical element is what the Department itself spends in providing contractual oversight and a range of central services to the prison. This remains a mystery.

Disparate cost estimates

For 15 years, we and many others inside and outside Parliament have been asking the Department to provide a robust estimate of its overheads. For 15 years it has agreed that this is a very reasonable and important question (Hansard, 2015; ERA, 2015; OICS, 2003; OICS, 2011).

The Department and its predecessors have never been able to provide an adequate or consistent methodology or figure and, as a result, wildly different estimates have emerged over the years [see Chapter 1]:

- From 2003 to 2010 we were told the indirect costs were 30 per cent of the contractors’ fee. This appeared an overestimate, but at least it left little doubt that everything was included.
- In 2013–2014, the Department’s new leadership slashed its estimate to 15 per cent (and then revised it down again to 13%). This seemed too low, and involved a worrying discrepancy of \$7–8 million dollars a year from previous estimates (OICS, 2014a).
- In 2014–2015, the Department provided yet another estimate to the Economic Regulation Authority (ERA) of around 11 per cent. Both we and the ERA believed this figure could not be supported and was probably under-stated (ERA, 2015).
- The February 2016 contract renewal announcement suggested that indirect costs are now estimated as 19.5 per cent.

I cannot explain these differences. To date, neither has the Department.

Breach of public sector expectations of agencies

The report of the 2013 inspection called on the Department to provide in its annual

reports on Acacia a ‘robust estimate of the costs it incurs in relation to Acacia Prison and an explanation of how those costs are calculated.’ It agreed to do this but has yet again failed to deliver.

Our 2015–2016 requests for information have met with a range of responses. Some were embarrassed and apologetic, and some have said it is not a departmental priority given its other serious financial management issues. It has even been suggested that we should take on the job. But the Public Sector Commission requires Departments to do their own accurate costings:

[Agencies are required to] accurately determine the cost of their services.
Determining the full cost of services enhances:

- Resource allocation within agencies;
- Decision-making by Ministers concerning policy options;
- The ability of government to allocate resources through the budget process;
- Setting appropriate prices for agencies where government has decided to recover costs; and
- Benchmarking (where appropriate) with the private sector or with agencies in other jurisdictions. (PSC, 2009–2012)

The Department’s long-standing failure to collect, record and share basic information is not just an irritant: it is something that undermines accountability and credibility, especially in an environment where the focus is contestability and benchmarking (ERA, 2015).

In response to Recommendation 2 of this report, the Department has said that the Department of Treasury ‘in cooperation with’ Corrective Services is developing a ‘cost and demand model for the provision of correctional services ... to provide robust performance information and ... to inform the budget process.’ I welcome their involvement if it leads to improved accountability and confidence but note that the Department does not make any commitment to improved public reporting.

RISKS OF LOWER PER CAPITA COSTS IN NEW CONTRACT

The headline to the contract renewal announcement in February 2016 was that the amount to be paid to Serco on a per prisoner per day basis will drop by eight per cent, from \$156 to \$144 (Francis, 2016; Parker, 2016). The total contract value will increase to \$77 million a year. The total cost per prisoner per day, including departmental overheads, was put at \$172 per prisoner per day. This means that the Department now estimates the total cost to be almost 20 per cent over what Serco will be paid, an amount of over \$15 million annually. This has been the fifth estimate in six years and more than we or the ERA were told in 2014–2015 [see p. viii].

Serco has made some profit from Acacia, but it has also delivered an efficient service over the years, including lower staffing levels than most prisons. I therefore sought their advice as to the feasibility and operational risks of the reduced per capita fee. From these

discussions it is clear that the drop will generate pressures, but Serco do have a very strong sense of what is required and a proven capacity for innovation. Importantly, they have also demonstrated a strong professional commitment to the prison that has certainly not been driven by profit alone. We will continue to monitor the impact of the per capita cut.

COSTS OF ACACIA AND OTHER PRISONS

Acacia costs a good deal less per prisoner than the average across all the state prisons (\$332 per day). However, generalised comparisons with the public sector average are very misleading because Acacia enjoys significant benefits:

- It is large, bringing economies of scale.
- It is modern, with a better design, better facilities, and better technology than most prisons.
- It is not a regional prison.
- It performs a specific role as a prison for medium-security sentenced male prisoners. It does not house remand prisoners who cost more per day (OICS, 2015). Nor does it hold maximum-security prisoners or female prisoners who incur, on average, greater expenditure (ERA, 2015).

It follows that the true cost differences can only be understood if (a) the Department can properly account for its costs; and (b) if comparisons between prisons factor in matters such as location, size, infrastructure, and functions. While the 'paper' gap between Acacia and the total system cost may be \$160 per day, the 'real' gap is less.

LOOKING AHEAD: 2018 AND 2021

Increased prisoner numbers and the reduced per capita fee will create real pressures on Acacia's services and infrastructure. Overall, however, I am pleased with progress at the prison over the past two and a half years and confident that, if momentum is maintained, it can cement its place again as one of the state's, and Australia's, best prisons.

Importantly, Serco have engaged intelligently and innovatively with the Department and ourselves over time. This responsiveness has served Serco well to date and augurs well for the future. Their responses to the report illustrate the point. They fully accept that issues need to be addressed and treat the inspection as an opportunity for improvement, not an annoyance. They have also provided detailed action plans not vague promises, and have already actioned many of these plans. This compares very positively with recent public sector responses.

Unless it becomes necessary to undertake an earlier inspection, the next one will be conducted in the second half of 2018. This is ideal timing for two reasons. First, from the prison's perspective, it gives Serco time consolidate operations at the expanded prison and to embed its new communities.

Secondly, the government does not have the option of extending the existing contract again. The contract was first entered in 2006 with a maximum lifespan of fifteen years (an initial period of five years with options for two five year renewals). That time expires

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in 2021, so 2018 is the midway point - a critical time for effective future planning.

Acacia has undoubtedly been a success in its fifteen years of operation, albeit with some fluctuations in performance at different times. However, in my view it would be wrong if political preference for one form of service delivery – public or private – was to dominate over an objective assessment of Acacia’s performance and potential, including the critical issue of reducing recidivism. I hope that the public sector will therefore be invited to bid against potential private sector operators to operating the prison from 2021.

‘Contestability’ of this sort would clearly be in the public interest. But the public can only have confidence in contestability if the Department is able and willing to publish far more transparent, reliable, and consistent information than it has done to date.

Neil Morgan
Inspector
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