Inspector's overview

We started this review in mid-2017 because we were concerned by the circumstances in which two women with acute mental health needs were moved from Bandyup Women's Prison to the state's secure forensic mental health facility, the Frankland Centre.

On a positive note, this report finds that these cases were anomalies. There is room for improvement, but movements are generally being conducted appropriately.

However, we kept hitting a much more fundamental question: *do prisoners who need to be in the Frankland Centre actually get there?* The answer is a resounding 'no': it has nowhere near enough beds to meet demand.

Everyone who responded to our draft report agreed with this, but nobody offered a solution with confirmed timelines or funding

The problem has reached such alarming levels that a solution is needed. Prisoners, as a group, have high mental health needs, and it is in the community's interests that they access treatment to improve their mental health, and to reduce the risk that they will re-offend on release.

A double-pronged approach is required, with more hospital beds and improved mental health services in prisons.

Both of these elements are essential. As the Royal Australian and New Zealand College of Psychiatrists says, 'prisons are not hospitals and should never be viewed as such.' Prison-based mental health units must not be seen as a cheaper alternative to inpatient care, but as a supplement and support to hospital-based services.

Too many people are in prison when they should be in a mental health facility

Most prisoners' mental health conditions can be managed in a prison setting provided that mental health services and supports are adequately resourced. But funding for health services in prisons, including mental health, has not kept pace with demand.

There are also some prisoners who are so unwell that they need to be in a forensic mental health facility, not a prison. The Frankland Centre is the only option, and prisoners can only get there if a psychiatrist has made a 'Form 1A' referral under the Mental Health Act. Form 1As are also used in the community when a person is so unwell that they need to be admitted to hospital involuntarily.

We knew that demand for secure forensic mental health beds would outstrip supply, but the situation is worse than we had expected. We found that:

- a third of prisoners referred to the Frankland Centre on a Form 1A never got there
- 20% of those referred multiple times never got there
- 40% of those referred on one occasion never got there
- 61% of all referrals lapsed without a hospital placement.

These figures are disturbing enough, but true demand is even higher. Psychiatrists who work in prisons are so aware of the shortage of forensic beds that they only make referrals in the most urgent of cases where a Form 1A might be clinically justified.

National and international standards state that mental health care in prisons should be equivalent to care in the community. We were informed that it is rare for someone in the community who is placed on a Form 1A not to access a hospital. Care for prisoners is therefore falling well short of community standards.

This is not in the interests of prisoners, or of the families and communities to which they will return. It also creates problems for prisons and their staff. Prisons are not hospitals, but the staff have to manage acutely unwell people in increasingly crowded, stressed and counter-therapeutic conditions.

Practices with respect to mental illness compare badly with practices for physical injuries or illness. If a health professional decides that a prisoner's physical condition is so acute that it requires hospital care, the person *will* be taken there, under appropriate security arrangements. Acute mental illness should be given the same priority.

The problem is clear, action is not

There is a very simple reason why so many referrals to the Frankland Centre are failing: demand for beds has rocketed but supply has been static for 25 years. Based on national and local estimates:

- Half of the 7,000 people in prison in Western Australia have some level of mental health disorder. Of this group:
    - around ten per cent require 'close mental health support'
    - over 200 need, or may need treatment in clinical conditions
    - at least 25 are so unwell that they require 'intensive and/or immediate care in a specialist inpatient mental health bed.'
- The Frankland Centre opened in 1993 with 30 beds. The prison population has tripled since then, but the Frankland Centre still has 30 beds.
- Of all Australian states, Western Australia has the lowest number of forensic beds per 100,000 of the population. We have just 1.9 beds. The national average is 3.4, and Tasmania and New South Wales have over 5.

This is the first report to quantify the gap between prison referrals and actual placements, but the problem has been known for at least fifteen years. Over that time, there has been no shortage of high level inter-agency meetings, in principle commitments, policy documents, and paper bullet points. What has been missing is action.

Plans for more forensic hospital beds are unclear and unfunded

The Frankland Centre is clearly too small to cope with numbers and need. As Western Australia's 'one-stop shop', it must hold adults and sometimes children, males and females, and people from metropolitan, regional and remote areas. In addition to treating people who are too unwell for a prison or detention centre, it must hold people who are referred for psychiatric assessment by a court.

The problems are well-illustrated by the position of young people. Currently, in order to meet the legislative obligation to separate young people from adults, part of the Frankland Centre needs to be emptied if a young person from Banksia Hill Detention Centre is admitted. Because of the strain this places on the centre, it only happens in extreme circumstances. Young people were outside the scope of this review, but we agree with the people who, in response to our draft report, have called for dedicated forensic youth beds.

We have recommended an increase in the number of secure forensic mental health beds. This aligns with the Western Australian Mental Health, Alcohol and Other Drug Services Plan 2015-2025, and everyone who responded to the draft report appeared to support this recommendation. But it is unclear what will be done, who will fund it, and when it will happen.

It is not for us to debate who should fund what. Some things just need to be done.

To alleviate pressure in the interim, we have recommended that lower risk people should be diverted to other hospital settings. This is not a new idea, but attempts appear to have failed in the past. The difficulty is addressing security and safety concerns of staff and managing the impact of diversion into facilities that are already under extreme demand. However, we hope that the Western Australian health system, corrections and the courts will work together to address these barriers.

Plans for better mental health services in prisons are unclear and unfunded

The responses to our draft report revealed general agreement with the recommendation for a subacute unit in Bandyup Women's Prison, but different views on where the responsibility for funding lies. To date, applications for funding have failed. Again, it is not for us to debate who should fund what: it just needs to happen.

In December 2017, the government announced that four new accommodation units will be added in to Casuarina Prison by the end of 2019. It is intended that some of the new capacity will be used to provide targeted mental health services, with talk of a 'step-up,

step-down' service. However, the Department of Justice has not yet developed a model for delivering these services, including purpose, scope and staffing arrangements.

It must be emphasised that, at best, the Bandyup and Casuarina proposals will service the needs of people who do *not* need hospital treatment. Prison accommodation, especially of the type to be used at Bandyup and Casuarina, can never displace the need for more hospital beds.

Transports are generally conducted appropriately

The immediate catalyst for this review was the movement of two women from Bandyup Women's Prison to the Frankland Centre in mid-2017 in concerning circumstances. Movements of this sort are conducted by a private contractor, Broadspectrum, under contract with the Department of Justice.

In one case, a very unsettled woman was transported naked. The prison rushed her move without attempting to stabilise her, and without adequate mental health oversight.

In the other case, Bandyup did the opposite. Both the Frankland Centre and the transport contractor were waiting, but Bandyup insisted that she complete the last two hours of a period of 'separate confinement' imposed for a prison offence committed several months earlier. If she had suffered a broken arm, she would have been immediately transferred. Her 'broken mind' was not treated with the same urgency.

On a positive note, we found these cases were anomalies, and that movements between prisons and the Frankland Centre are generally being conducted in an appropriate way by Broadspectrum and the Department of Justice.

I am also pleased to report that when issues were recognised, the Department of Justice and Broadspectrum implemented improvements. The Department has also provided detailed responses to recommendations, and has indicated how they will be actioned. The changes that are flagged will reduce the risk of similar occurrences in the future.

However, there is room to improve processes and coordination. Currently, too much hinges on goodwill and personalities rather than robust processes. This generates inefficiencies and risks.

As the vehicle fleet is upgraded, consideration should be given to commissioning a secure medical transport vehicle. Most transfers to the Frankland Centre take place in standard custodial transport vehicles. These vehicles are 'hard', sterile, isolating and claustrophobic. Mental health patients deserve better.

Information and tracking

There is no tracking of when people are referred to the Frankland Centre from prison and the outcome of the referral. We therefore had great difficulty determining how many

people had been moved to the Frankland Centre and how many never made it. Information had to be patched together from multiple sources.

We have made a recommendation to improve record keeping. All agencies agree this is necessary but there was there was no agreement on who is responsible for doing so.

If agreement can't be reached on how to record and track basic information, it is difficult to see how the larger actions discussed in this report will be achieved.

Summary

We must stop placing mentally unwell people in prison, not providing adequate access to treatment, releasing them, and expecting a good outcome.

At a time when mental health services as a whole are under so much pressure, it may be hard to build a case for services to prisoners. But we already spend an enormous amount on incarceration. It costs, on average, $300 a day, or $100,000 a year, to keep just one adult in prison. It costs even more to hold people with serious mental health problems.

The additional costs of providing proper mental health treatment are likely to be substantially, or fully offset by improved mental health, reduced risk to the community, and a lower risk of the person returning to prison.

In short, the issues are known, the solutions are known, and progress is desperately needed.