



Minister for Climate Change and the Environment
Minister for Energy
Minister for Corrective Services
Minister for Public Sector Reform
Special Minister of State

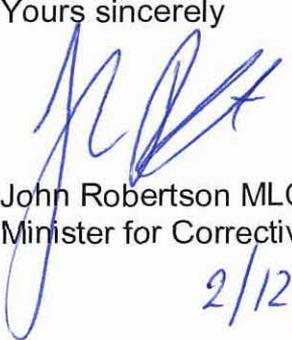
Ms Lynn Lovelock
Clerk of the Parliaments
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

Dear Ms Lovelock

Re: Inquiry into Privatisation of Prisons and Prison Related Services

Please find enclosed the Government response to the above Inquiry.

Yours sincerely


John Robertson MLC
Minister for Corrective Services

2/12/09

**Response to Legislative Council General Purpose Standing Committee
No.3 Report into privatisation of prisons and prison related services.**

Recommendation 1

That any move to privatise Parklea Correctional Centre be delayed for three months to allow the Department of Corrective Services and the Prison Officers Vocational Branch of the Public Service Association to negotiate the comprehensive implementation of The Way Forward in all correctional centres.

Response: The Government has a responsibility to ensure that it is managing public funds in the most prudent way possible. Since 2004/2005, through the Way Forward Workplace Reform strategies, Corrective Services NSW has reduced operating costs by \$21 million per annum and established more efficient workplace practices in new correctional centres. Overall, the total estimated savings are expected to realise approximately \$63 million per annum.

Prior to making its decision to outsource the operations of Parklea Correctional Centre, Corrective Services NSW had conducted lengthy negotiations with the Prison Officers Vocational Branch of the Public Service Association.

Recommendation 2

That the NSW Government provide adequate assistance and/or compensation to all former Cessnock Correctional Centre employees who have been disadvantaged by accepting a voluntary redundancy or transfer as a result of the November 2008 decision to privatise the centre.

Response: All employees affected by the Government's original decision to outsource the operation of Cessnock Correctional Centre were given the option to either seek employment with the private operator with salary maintenance, be redeployed across Corrective Services as part of a reasonable deployment opportunity, be considered for a voluntary redundancy, or seek to become excess officers for placement in positions in other Departments.

For those staff members who accepted a voluntary redundancy and completed the process, they were advised to put their request in writing to the Commissioner of Corrective Services, who considered all requests on a case-by-case basis. Additionally, any transferred officers wishing to return to Cessnock have returned.

Recommendation 3

That the Department of Corrective Services publish details of its costing methodology, focusing on the allocation of departmental overheads to both public and private New South Wales correctional centres.

Response: The Government supports the recommendation in principle. However, any implementation of the recommendation will need to be made in accordance with guidelines established by the Corrective Services Administrators Council and Productivity Commission for the Reports on Government Services.

To advance this, the Finance Directors of each of the jurisdictional Corrective Services agencies met on 6 November 2009 to discuss further refinement of the accounting rules for correctional services, including issues such as standardised costing methods for prisoner health services, corporate overhead distribution, asset ownership versus operating costs, and the reporting of commissioning costs. Recommendations will be made to the Corrective Services' Administrators for consideration in due course.

The Government also notes that Deputy Commissioner Schipp outlined the costing methodology to the Committee, as noted at paragraphs 4.36 and 4.37.

It is to be noted that Corrective Services NSW already publishes financial information in its Annual Report, in accordance with appropriate legislative, accounting and auditing requirements.

Recommendation 4

That the NSW Government introduce re-entry performance indicators at all correctional centres in New South Wales.

Response: Whilst this recommendation is worthy of consideration, it should be noted that this is an emerging area in Australian correctional practice and that performance indicators are still in the process of being developed.

It is not appropriate to apply re-entry performance indicators to all correctional centres in NSW, as centres vary in the extent to which they function as release centres. For example, remand and reception centres, would be excluded. Corrective Services NSW also notes that officers supervising parolees, as a matter of course, attend to accommodation and employment-related issues.

The Committee did not adduce evidence from Corrective Services NSW in relation to re-entry or re-settlement at the hearings, and therefore was not informed about its range of activities and programs, including the Community Offender Support Program Centres and the Inmate post release employment strategy, to assist with re-settlement into the community.

Corrective Services NSW is committed to addressing re-entry needs as part of its Throughcare strategy to co-ordinate and integrate services to offenders from point of entry to exit. This includes ensuring that offenders have access to community support services, such as provided by Housing NSW and Centrelink, before and after their release into the community.

Corrective Services is also committed to measuring performance, and appropriate performance indicators will be developed as re-entry strategies are rolled out.

Recommendation 5

That the NSW Government provide a three-year wage guarantee for the existing staff members at Parklea Correctional Centre who secure a position with the incoming private provider.

Response: The Public Service Association (PSA) filed an award application with the Industrial Relations Commission of NSW which sought a range of employment options for staff from Parklea Correctional Centre should the correctional centre be outsourced.

With the consent of Corrective Services NSW and the PSA, Vice President Justice Walton issued a Direction at the conclusion of the case on 10 July 2009 which set out the employment options for Parklea Correctional Centre staff.

The employment options include the provision of a Recruitment Support Payment for those employees from Parklea Correctional Centre who are successful in gaining a position with the new operator.

Recommendation 6

That the NSW Government consider the need to have an independent health service provider at all New South Wales correctional centres.

Response: Corrective Services NSW is not aware of any health audit by Justice Health (or its predecessor) of the private operator of Junee Correctional Centre since it opened on 19 March 1993, which has found GEO (or its predecessor companies) to have an actual or perceived conflict of interest, or to have been lacking in the delivery of appropriate health care services. The health service at GEO is audited by Justice Health as well as the Australian Council on Healthcare Standards. Justice Health's auditing role in respect of the conduct and level of service provision of a private operator is provided for under section 244 of the *Crimes (Administration of Sentences) Act 1999*.

GEO Australia complies with nationally recognised standards for health care facilities as is evidenced by its corporate accreditation with the Australian Council on Healthcare Standards since 1999 and ISO since 2000.

Justice Health will continue to provide health services in all publicly operated correctional centres, courts and police cells, and to juvenile detainees and those within the NSW forensic mental health system and in the community. Justice Health will also continue to provide services at Parklea Correctional Centre.

Recommendation 7

That all private correctional centre contracts in New South Wales be made publicly available on the Department of Corrective Services' website.

Response: The Government supports the recommendation. It is noted that Corrective Services NSW already publishes its contracts with the private sector on its website, including the management agreement for Junee Correctional Centre between the Commissioner for Corrective Services and the GEO Group. It will also do so in the case of Parklea Correctional Centre.

The Minimum Standards governing the private sector operation of Junee and Parklea Correctional Centres have also been submitted to the NSW Parliament, as required by section 248 of the *Crimes (Administration of Sentences) Act 1999*.

Corrective Services NSW will not disclose the commercial-in-confidence provisions of a contract, details of any unsuccessful tender, information that could reasonably be expected to affect public safety or security, or any matter where there is an overriding public interest against disclosure. Such exceptions are provided for in the *Government Information (Public Access) Act 2009*.

Recommendation 8

That the Department of Corrective Services report the results of all New South Wales Correctional Centres against common Key Performance Indicators in the Department's Annual Report. Key Performance Indicator data should also be published on the Department's website.

Response: The government supports this recommendation in principle, but notes that Corrective Services NSW, in its Annual Report, is required to report in accordance with the reporting requirements governed by legislation.

The Corrective Services NSW Annual Report is structured in accordance with the Corporate Plan, and therefore provides information against corporate performance indicators, which include national standardised indicators. In the section of Offender Management and Operations, Corrective Services NSW

reports on statistics relevant to the management of offenders in custody. The Monitor's annual report on the management of Junee Correctional Centre is included as an annexure to the Corrective Services NSW Annual Report in accordance with section 242(6) of the *Crimes (Administration of Sentences) Act 1999*.

The Commissioner of Corrective Services NSW has recently directed that monitors are to be appointed to a number of major correctional centres. As a result, the Corrective Services NSW Corrections Inspectorate is to be expanded, with a change in reporting structure. These developments will in the future, facilitate valid comparisons across private and state operated correctional centres.

Recommendation 9

That the NSW Government ensure that private correctional centre contracts in New South Wales are made fully accessible under the *Freedom of Information Act 1989* (NSW).

Response: The Government refers the Committee to its response to recommendation 7.

Recommendation 10

That the position of NSW Inspector General of Correctional Centres be reinstated to report on both public and private correctional centres.

Response: The Office of the Inspector-General has been closed since 2003. The Office expired in accordance with the legislation that established it, and was not reinstated after the Government accepted the recommendations of the *Report of the Review of the Office of the Inspector-General of Correction Services*. The review was conducted into the Office of the Inspector-General of Corrective Services pursuant to former section 222 of the *Crimes (Administration of Sentences) Act 1999*.

The report, authored by Mr Vernon Dalton and Mr John Avery, was tabled in Parliament on Tuesday 10 June 2003. The report identified significant duplication between the Inspector-General and the Ombudsman. The report also found that the continuation of the Office of the Inspector-General was not justified given that the NSW Ombudsman has greater authority and legislative powers to fulfil the role for which the Inspector-General was created.

As a result of this unjustifiable duplication of resources, the main functions of the Inspector-General were subsequently transferred to the Office of the Ombudsman, with the exception of the administration of Official Visitors, which was transferred to Corrective Services NSW. Additionally, Corrective Services NSW now operates a Corrective Services Support Line (or CSSL)

which is a free telephone service for inmates where inquiries and complaints can be addressed.

Accordingly, the Government does not consider this issue warrants revisiting.

The Commissioner of Corrective Services' recent direction regarding the appointment of monitors to a number of state-operated Correctional Centres, and the corresponding expansion of the Corrections Inspectorate will reinforce performance reporting on both public and private correctional centres.

Recommendation 11

That the NSW Corrections Inspectorate be removed from the control of the Department of Corrective Services and placed under the authority of another government department such as the Attorney General's Department or the Department of Premier and Cabinet.

Response: The Government believes that there are sufficient oversight mechanisms already in place, both within and external to Corrective Services NSW to ensure that decisions made by the Inspectorate are free from influence or bias. Following a restructure of New South Wales government agencies into 13 new Departments, Corrective Services NSW, is now part of the Department of Attorney General and Justice.

The NSW Corrections Inspectorate has a changed reporting structure, with the Inspectorate no longer reporting through Offender Management and Operations. Instead, the Corrections Inspectorate is now a standalone branch, reporting to the Commissioner through the Executive Director Inspectorate and Community Offender Strategy.

Recommendation 12

That the Department of Corrective Services annually conduct confidential inmate and officer surveys at all New South Wales correctional centres to assess satisfaction and identify issues with service quality.

Response: There are already a number of complaints mechanisms in place within the correctional system. Consideration is being given to the development of an inmate survey, for use in New South Wales.

Recommendation 13

That the NSW Government establish a Correctional Centres Parliamentary Oversight Committee, with powers and authority similar to the Committee of the Independent Commission Against Corruption.

Response: All correctional centres in New South Wales operate under the provisions of the *Crimes (Administration of Sentences Act) 1999* and the *Crimes (Administration of Sentences) Regulation 2008* and must abide by Corrective Services' operational policy and procedures.

Correctional Centres are already subject to independent oversight by bodies such as the NSW Ombudsman and the Independent Commission Against Corruption (or the ICAC). Both these agencies report to the Parliament and the results of investigations are tabled and become part of the public record.

New South Wales inmates have a range of options to pursue complaints and grievances. For example, under the *Crimes (Administration of Sentences) Act 1999*, an inmate can make both oral and written requests/complaints to the Governor of the correctional centre where the inmate is held, can access an Official Visitor, or make a written complaint to the Commissioner of Corrective Services NSW, or to the Minister.

Non-statutory avenues of complaint available to inmates include complaints to the Corrective Services Support Line (or CSSL), a dedicated "inquiries and complaints hot-line". The Corrective Services Support Line, which is a free telephone service available to all inmates in full-time custody, is established to facilitate resolution of inquiries and complaints raised by inmates. The staff of the CSSL have been specifically selected so that they are able to interact appropriately with the inmates and respond to their concerns, in a timely and professional manner.

Inmates also have access to Inmate Development Committees within correctional centres; to Official Visitors, other authorised visitors and/or community agencies and to Members of Parliament.

Recommendation 14

That the Department of Corrective Services employ departmental monitors on-site at all private correctional centres in New South Wales.

Response: Corrective Services NSW employs monitors to attend privately operated Correctional Centres, as required by the *Crimes (Administration of Sentences) Act 1999*.

Under new arrangements for the Corrections Inspectorate, each privately operated correctional centre will have a monitor appointed. The Commissioner has announced that monitors will be appointed to a number of large correctional centres. However, inmate numbers and the inmate profile of many smaller correctional centres do not justify such appointments to all correctional centres.

Recommendation 15

That other than Junee and Parklea Correctional Centres, the NSW Government should not privatise any existing or future correctional centres in New South Wales if they operate under The Way Forward.

Response: The Government has no current plans to outsource the operations of any further Correctional Centres. While Junee and Parklea Correctional Centres are privately managed, they remain publicly owned assets.

Recommendation 16

That the NSW Government monitor the private sector management of Parklea and Junee Correctional Centres, and should they fail to meet their fundamental contractual obligations, the centres revert back to public management.

Response: Private operators of correctional centres in NSW are required to adhere to standards of correctional management set down and monitored by Corrective Services. The management of a correctional centre under contract is regulated by Part 12 of the *Crimes (Administration of Sentences) Act 1999*, which includes amongst other things that the Commissioner must prepare minimum standards to be met by any contractor.

A monitor will be appointed to Parklea Correctional Centre, in addition to the existing monitor at Junee Correctional Centre. These monitors will be on site as required to monitor the private operators' performance against the minimum standards and other contractual obligations.

Should a private contractor fail to meet the standards imposed on it, it can be subject to penalties for non-compliance, including termination of the contract. Corrective Services NSW can also choose to utilise Alternative Dispute Resolution Procedures to resolve issues concerning compliance with the contract.

Recommendation 17

That the Department of Corrective Services publish details of the implementation of The Way Forward and the cost savings achieved through the implementation of The Way Forward for each correctional centre in New South Wales. Details of the implementation of The Way Forward are to be published on the Department's website biannually with the first report of progress to occur by 1 November 2009.

Response: Corrective Services NSW reports to the Treasury on its financial performance on a monthly basis. On a quarterly basis, Corrective Services

reports to the Expenditure Review Committee of Cabinet on progress in achieving savings under the Way Forward strategies.

Recommendation 18

That the NSW Government give the Department of Corrective Services one year to identify \$5 million in savings per annum in the Court Escort Security Unit, before it considers privatising the Unit. The Department should provide the Government with an update after six months to advise of the actions and progress it has made toward achieving this target.

Response: Negotiations between Corrective Services NSW and the Public Service Association on reaching savings of \$5 million are continuing, and the parties have so far identified and agreed upon a number of potential savings strategies.

It is expected that Corrective Services NSW and the PSA will continue to work co-operatively on identifying the full savings required.