

**Response to Questions on Notice  
Inquiry into Parklea Correctional Centre and Other Operational Issues**

Associate Professor Jane Andrew

Dr Max Baker

25th October, 2018

This submission relates to the committee's request to comment on the further submission of Professor Gary Sturgess to this Inquiry.

**AREAS OF AGREEMENT**

**1. Improved transparency:**

We agree with Professor Sturgess that more information about the performance and costs of private prisons should be made available to the public of NSW. In particular we agree with Professor Sturgess' claim that "there are very few details about the contracting process which are truly 'commercial-in-confidence'" and that there is no reason why "almost all details of the contracts could be released after a short period of time". A similar willingness to provide greater transparency was apparent in the oral evidence given by representatives of The GEO Group to the Inquiry.

In other jurisdictions such as Western Australia, private prison operators are not afforded commercial in confidence protections. In WA, the information related to prison contracts has been made available to the public, including operating fees, performance linked fees and abatements. It seems logical that if this is possible elsewhere, it is possible in NSW.

We would go further, and suggest that information regarding both financial and non-financial performance outcomes should also be publicly available.

**2. Comparisons are difficult:**

We agree with Professor Sturgess that comparisons across the sector are difficult, and for a range of reasons they have remained of poor quality. This continues to be a serious impediment to the development of evidence-based prison policy, and while we agree policy responses may not be perfect, they would be significantly improved if more information was made available to the public. At the very least, this would facilitate high quality academic research that could inform both policy makers and public debate more broadly.

Professor Sturgess refers to some of his work from "more than a decade ago" to argue that policy makers have to be pragmatic and make decisions that are 'good enough' in the face of limited data.

While we agree, perfect information is impossible, apart from some recent, limited comparisons (which we will mention next) there has not been any significant improvement in the availability of data and in the evaluation, or methodologies used over the last ten years. This has continued to frustrate us as researchers, because the amount and quality of information in the public domain should have improved over the last decade in line with improvements seen elsewhere in the country.

## **AREAS OF DISAGREEMENT**

### **1. Conclusions of recent comparison reports**

While we agree with Professor Sturgess that more information is needed, we disagree with Professor Sturgess that the findings of more recent reports are a marked improvement in transparency and strengthen a case for further privatisation. As accounting researchers, we find that these reports present little detail in relation to costs and do not present adequate information as to the methodology used in the production of the numbers reported. The following is our analysis of the reports published around same time of our 2016 report "Prison Privatisation in Australia: The State of the Nation". Overall, while the creation of such reports add some new information to the debate they still lack crucial details in a number of key areas:

- a) The Economic Regulation Authority inquiry into WA prisons published in 2015 found that while, at an operating level, the Serco run Acacia facility had the lowest costs, the other private facility, Wando, was the most expensive in the state at 3 times the state average. Not only did this report reconfirm the difficulty of comparing very different facilities on a cost basis but it also revealed the difference in transparency levels between public and private operators. While cost breakdowns of public sector prisons were disclosed, for private operators the government disclosed only a single large 'external fee' as the main cost (see table 5 and 6, p. 56).
- b) The Queensland Audit Office Report into the Management of Privately-Operated Prisons published in 2016 claims that the private sector has delivered \$55.4m in cost savings. It is hard to garner any real information from this report. The publication is largely based on comparing two artificial sets of numbers: 1. hypothetical public sector costs and 2. budgeted cost information from private bids (not actual expenses). Beyond the report, the performance of private prison operators in Queensland is clear. A recent ABC 730 report examined the issues at Arthur Gorie, where significant reductions in staff numbers have led to a 500% increase in violent attacks and a 700% rise in sexual violence. The coverup of these problems by GEO management is the now the subject of an investigation by the Queensland Crime and Corruption Commission.
- c) The Victorian Auditor General's report on the Safety and Cost-Effectiveness of Private Prisons published this year finds that private prisons are "up to" 20% cheaper. Unfortunately, the report does not provide any details related to these costs or the methods used to draw this conclusion. The report states that private prisons "appear to operate at lower operational staff-to-prisoner ratios, particularly during daylight hours" and that they "have more flexible staff scheduling to better accommodate the day's structure, with shifts of various lengths between 7.60 hours and 12.40 hours and shorter shift-overlap periods" (p.87). Besides this information there is little detail in the report, reducing any ability to critically examine the state's findings or to inform a public discussion surrounding costs. As part of response we have attached our detailed independent analysis of the VAGO report.

### **2. Varieties of Markets:**

While we agree that there are many ways in which markets can be created with regard to public services, we do not see these as self-evidently neutral activities:

- a) Market testing requires the construction of a public sector bid and this involves a series of estimates and assumptions, many of which we are not able to assess as researchers. The opaqueness of tendering and bid construction process makes it difficult to determine whether the market for public services is a level playing field.
- b) The credible threat of competition is not needed to drive innovation or deliver effective prison services in many jurisdictions across the world, so the idea that this should be the primary mechanism through which we can optimise prison services should be challenged. As an alternative, we would argue that good policy design within a well-resourced sector could deliver much better outcomes for the people within our jails, people working in prisons and the community more broadly. Moreover, we find it curious that Professor Sturgess only makes comparisons to other countries with 'mixed' private/public prison sectors such as the UK and the US. While a broad sweeping statement on the quality of each country's prison sectors is difficult, it is fair to say that neither are world class. Alternatively, it is interesting to note that the most successful

prison sectors in advanced economies in terms of incarceration rates and outcomes are all constituted by government run prisons (for example, Denmark, Sweden, Norway and Finland).

- c) For-profit service providers need to drive down the costs of service delivery in order to optimise their returns to shareholders. While this may be achieved through innovation, there is little evidence of innovation transfer in NSW. Without having access to the core data, it appears most likely that downward pressure on wages and working conditions are the primary source of profit margins. We would like access to cost allocations within private prisons in NSW to avoid speculation and assess the levels of innovation and staff costs within these prisons. We don't believe it is acceptable that the only information in the public domain about the operating costs at Parklea were provided in 2009, and they are almost entirely redacted (see below). If innovation at private prisons involves paying people less, or reducing prisoner related costs, we need to understand the consequences of this for the sector in terms of performance over the longer term.

WORKSHEET A

**Parklea Operational Fee**  
*Enter in coloured cells only - Don't add or delete lines.*

<b>Labour Costs</b> - <i>linked to Labour Cost sheet</i>	
Ordinary Labour and Allowances	
Overtime	
Long Service Leave	
Superannuation	
Payroll Tax	
Workers Compensation	
<b>Non Labour Costs</b> - <i>linked to Non Labour Cost Sheet</i>	
Staff Related Costs	
Prisoner Related Costs	
Property Related Costs	
General Costs	
<b>Industry Costs and Revenue Offsets</b>	
Industry Materials and Consumables	
less Industry Revenue	
<b>Gross Profit</b>	
<b>ANNUAL OPERATING COSTS</b>	
<b>Margin &amp; Contribution to Corporate Overheads</b>	
<b>OPERATIONAL FEES</b>	<b>\$29,124,488</b>

### 3. We do not only focus on costs:

Professor Sturgess claims we have not looked at the “other reasons” beyond cost that may support the inclusion of private providers within the prison sector. This is not true; our study also considered the effects of privatisation on performance and public accountability.

- a) It ‘may’ drive service improvement, but there is no evidence that this has been the case despite a long history of experimentation with privatisation across the country. Where private prisons perform well, it is likely that a public prison would also perform well – in newly purpose-built prisons, in locations with fairly stable employment, and with prisoners who are not the most complex in the system.
- b) It ‘may’ lead to system learning but there is no evidence of knowledge transfer in NSW.
- c) It ‘may’ improve performance management because the KPIs are tightly defined, but we don't know this in NSW because performance outcomes are not publicly available. There is also considerable research that KPI design can be problematic and that in many cases the presence of KPIs can create dysfunctional appearance management rather than real long term socially beneficial outcomes.
- d) Transparency and public accountability has not improved in NSW as a result of privatisation. Commercial in confidence mechanisms prohibit access to significant amounts of performance and cost related information. Moreover, the Auditor-General in NSW does not have ‘follow the money’ powers. This means their ability to scrutinise the use of tax payer funds by private providers is limited.

## **CONCLUSION**

We stand by our research findings that “overall, we find that there is not sufficient evidence to support claims in favour of prison privatisation in Australia. As a consequence, it is our view that no further privatisations should take place before an appropriate level of information is made available to policy makers and the public in order to properly assess the impact of privatisation on the sector. In addition, there is a need for more research that engages directly with those impacted by the sector: prison employees and prisoners” (Andrew et al, 2016, p. 4).

## APPENDIX 1

### Independent Assessment

Associate Professor Jane Andrew and Dr Max Baker

Victorian Auditor General's report on the Safety and Cost-Effectiveness of Private Prisons

1. Follow the Money powers have no clear benefits to the public: details remain confidential and hidden from public scrutiny.
  - a. If this is the first audit using the follow the money powers of the AG then much more work needs to be done to foster a transfer of deepening internal accountabilities (between the state and the private provider) and public accountability:
    - i. there is no discussion of how these powers were used in this audit;
    - ii. the discussions on costs lack substance, detail and evidence;
    - iii. it appears commercial in confidence arrangements continue to protect private firms from public scrutiny, despite these new powers.
2. If it is true that they are "up to" 20% cheaper, this is entirely because of pressures on staff and not performance innovations or internal efficiencies: it's because of less handover time; less staff; shift variability.
  - a. The claim that private providers are "up to" 20% cheaper is not substantiated but there are statements that this cost saving is generated through the use of "more efficient staff patterns" p.10. Later they state that this is because they "appear to operate at lower operational staff-to-prisoner ratios, particularly during daylight hours" and that they "have more flexible staff scheduling to better accommodate the day's structure, with shifts of various lengths between 7.60 hours and 12.40 hours and shorter shift-overlap periods." (p.87)
    - i. In effect, they use less staff.
    - ii. They do less handover work between shifts.
    - iii. The shifts are varied, but it is unclear how this is designed to facilitate work within the prison or how this affects the ability of staff to plan and undertake work.
3. If it is true that they are 20% cheaper because of "staff patterns", we are given no details about these patterns and the positive or negative effects.
  - a. Are there no "downsides" to a more efficient staff pattern? And what does this even mean? And how is it possible that this delivers a 20% reduction in costs compared to the public sector? Despite the fact that the DC has data on work related matters, the report provides no data on:
    - i. Pay scales?
    - ii. Experience of workers?
    - iii. Staff Turnover?
    - iv. Training?
4. But, we are told, we should treat these claims with "caution" because prisons are not a "level playing field", so is there really a 20% saving?
  - a. Buried on page 85 is the warning that comparisons should be "treated with caution" because of "differences in the characteristics of individual prisons including location, age, size, physical layout, security classification, prisoner profile and their role or function within the overall system influence their operating costs" and that "these differences make it difficult to compare costs on a 'level playing field'" p.85
5. And there was never a competitive process of contract renewal because it would have been too costly.
6. Because of the difference in contracts for the lease of the land and the management of the prison, the state was effectively "locked in" to contract renewal.
  - a. As a result, there was no competitive process associated with the new contracts because to do so would the state was "likely to incur significant additional costs if it competitively tendered the operation of the prisons or decided to operate them itself". P.11