



Ms Rachel Simpson
Committee Director
Legislative Council
NSW Parliament
Macquarie St
Sydney
NSW 2000

16 April 2009

Dear Ms Simpson,

Inquiry into the privatisation of prisons and prison-related services – NSW Parliament

Please find attached my responses to the additional questions ("Questions on Notice", dated 27 March 2009), which were forwarded to me earlier this month. I have answered all the questions as requested.

I have also read through the transcript of my evidence given at the hearing and I have no changes to make.

Should you require any additional information and or wish to clarify any matters relating to my attendance, please do not hesitate to contact me on 08-9264-1305 or 041-9900-499.

Yours sincerely,

A handwritten signature in blue ink that reads "Brian Lawrence".

Brian Lawrence
Manager Acacia Prison and CS&CS Contracts.

1. Was Acacia Prison built under a private public partnership, or is it owned by the WA Government but managed privately?

Acacia was funded by Government, but built and operated by a private provider. The Contract is a 20 year contract and at the end of that period, the Government will own the prison and can determine how they operate it.

- a) Are you aware of the views of local residents about the prison being privately run? Are they generally positive about it?

One of the first tasks undertaken during the procurement process for Acacia Prison was to undertake extensive community surveys, to ascertain how the community felt about having the prison firstly being built on its site and also how the community felt about a private operator. The outcomes of the surveys were positive.

A Community Reference Group was also established during the process and this provided an appropriate forum for local residents, businesses and organizations to raise any issues of concern in the period leading up to and following the opening of the prison.

Prior to the prison opening a number of prison tours were undertaken to show interested parties (organisations, local residents, department staff etc) the inside of the prison and to develop an understanding of how the prison was going to operate.

The requirement for the Contractor to consider local communities in their operations is included in the Services Agreement where it determines that the contractor must act openly, fairly and reasonably and use reasonable endeavours to enhance good relations and minimise disruption and inconvenience.

The prison also involves community groups in some of its operations and provides goods and services for local charitable agencies and local schools. There has been no negative comment reported since the prison opened.

2. What were the main issues raised during the privatisation debate that preceded the decision to privatise Acacia?

The decision was made in 1997 by the then Liberal-National Party Coalition Government to seek an alternative form of service delivery from the traditional public sector arrangements. The motives for going down the privatisation track included:

- a desire to change and improve the management culture of prisons;
- the hope that better recidivism outcomes could be achieved through different approaches to offender programs and related matters;
- an intention to contain costs of imprisonment; and
- a hope that the achievements of this innovative approach to imprisonment would encourage public sector prison management to respond and improve.

The decision was controversial both in party political terms and from the public point of view. The Australian Labor Party, then in Opposition, was strongly opposed to privatisation of what it regarded as a core State service. The public and media debated the point that private prisons had a mixed record in other parts of the world, including Australia, ranging from the very good to the very bad.

The UK experience reported on the success of contestability and how its private prisons were out-performing their publicly operated counterparts in a range of key areas, including:

- preparing prisoners for release back into the community
- improving staff morale and relations between staff and prisoners
- providing better care of suicidal and at risk prisoners

In deciding to go down the privatisation road, accountability and external scrutiny were seen to be crucial elements of any privatisation initiative. This resulted in the Office of the Inspector of Custodial Services being established to bring independent external scrutiny to the standards and operational practices relating to custodial services within the State.

There was also a requirement from Government that onsite monitors be provided at the prison to ensure contract compliance.

3. Were there significant changes to the private contract following the first five-year period?
 - a) If so, what were the changes and why were they considered necessary?
 - b) Why was a new contractor, Serco Australia, chosen instead of the existing contractor, AIMS Corporation?

Yes there were lots of changes and the Contract was completely rewritten. The original contract was very much an outcomes based contract which did not define well, the required standards for service provision. The changes made to the contract were based on a need to structure the Request for Tender against a set of developed standards and outcomes that had been determined by the Department.

During the re-tender procurement process respondents were required to show in their submission how they would deliver services to meet the Department's described standards. Both elements were then included in the final contract.

Serco were selected because they provided the best response to the RFP, as well as having similar philosophical views to those of the Department. For example they employ a "responsible prisoner" model, where prisoners are expected to behave and be responsible for their behaviour and work towards skilling themselves for release from prison. Serco also offered a lot more in terms of prison innovation and a huge commitment to providing prisoner education and program. Serco were not selected because they provided the cheapest bid, but because they provided the Department with confidence that they would provide the services they said they would provide in their tender application.

4. The Acacia Prison Services agreement Annual Report 2006/2007 describes the fees paid to the service provider as being calculated on the prison's daily average population over a month (779). In NSW, the service provider is paid a flat fee based on capacity.
 - a) What is the capacity of Acacia Prison?
 - b) What is the average daily rate of capacity utilisation at Acacia – is it over or under 100%?
 - c) Has there been a significant saving because of the method of calculating the fee?

The current capacity of Acacia Prison is 900 beds. This number does not include beds in the Detention unit (30) or the health centre in which there are 8 beds for medical and Crisis Care needs.

During the time that the report refers to the capacity of Acacia was 800. The Department capped the population to 785 to enable the use of contingency beds should an incident occur such that prisoners would need to be moved internally within the prison.

The public prisons are responsible for the security rating and placement of prisoners on receipt at the Hakea Remand Prison. This means that the public prison is responsible for maintaining the population at Acacia and on occasions this process suffered from a lack of prisoners who had a medium security classification.

The population figures for the report period were:

Month	PEAK	AVGE
Jul-06	743	736
Aug-06	749	741
Sep-06	751	742
Oct-06	769	753
Nov-06	788	789
Dec-06	788	774
Jan-07	780	774
Feb-07	782	772
Mar-07	783	778
Apr-07	780	776
May-07	788	780
Jun-07	784	779

The figures indicate that the prison didn't operate at full capacity very day, even to the "capped" level.

The monetary savings to the State from using a daily average population are quite significant as it is not possible for the average to exceed, or equal, the maximum population. Applying the NSW model to the table above would have required payment for 800 prisoners per month, whereas the "average" model only pays the maximum fee for 5 of the 12 months.

5. Can you please explain the services provided under the court security and custodial services contract?

On 12 November 1998, the Minister for Police in the Coalition Government of Western Australia read the Court Security and Custodial Services Bill in the Legislative Assembly. The purpose of the Bill was to "provide a unified statutory framework for the substantial reorganisation of arrangements and powers of the operation and provision of services central to the support and functioning of courts and related custody processes" (Prince 1998).

The services included court security, court custody management, prisoner movement and lockup management. One of the key espoused benefits from implementing the legislation was the release of up to 200 police officers to core policing duties.

The Court Security and Custodial Services Contract therefore is responsible for both the provision of court security, court custody services and the bulk of prisoner movements around the State of Western Australia. The variety and extent of such prisoner movements are many and include: police lockup to prison; prison to prison by way of transfer or for inter-prison visits; prison to court and vice versa; prison to hospital or to

some other medical centre and vice-versa; prison to funeral location and back; prison to mental hospital and back; juvenile institution to or from similar venue.

The Contract also requires the Contractor to provide staff to look after prisoners who are in hospital undergoing treatment and or recuperation.

- a) What has been the response of the Sheriff's Department and the Police Force to privatisation of roles previously undertaken by these agencies?

The original push for the contract came from Police, who were keen to free up officers from what was seen as being "non operational" duties and returning these officers to "front line" policing. The current Commissioner of Police has written to the Attorney General, requesting that all the remaining prisoner transport and custodial services such as lockups, not currently part of the CS&CS contract, be taken over by the Contractor, as he sees the role of lockup management and prisoner transportation as not being "core business" for the Police Service. This request is currently being investigated by the Department of Corrective Services, with a view to including the remaining services currently being undertaken by Police, into the CS&CS Contract. See the extract below from WA media monitors.

ABC radio 720 Perth (Perth)

07:45 News - 07/04/2009 - 07:52 AM

Newsreader

Executive Producer Mr Andrew O'Connor 08 9220 2820

Karl O'Callaghan, Police Commissioner has written to the Attorney General to have prisoner transport removed from police responsibilities. O'Callaghan says you can imagine how many police hours are wasted in doing it, and they will be out of action for two or three days. He believes the job should be done by the Department of Corrective Services.

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Duration: 0:43

Summary ID: P00034283842

6. What role does DCS have in relation to the management of provision of services under the contracts?

DCS is responsible for administering the contract and ensuring contract compliance. It does this by way of a dedicated contract management team and also with "on-site" DCS monitoring officers at Acacia Prison, who undertake compliance checks based on a risk management profile developed by the Department.

7. A key criticism raised during the debate into privatisation in NSW is the differences in conditions of employment between prison officers employed in the public vs private prisons.
 - a) Are you able to provide any comments on the differences between employment conditions at the private facility at Acacia and public centres, for example, the use of casual prison officers or reliance on overtime?

One of the issues with the first Contract with AIMS Corporation was that of staff retention, as staff would continually leave Acacia to take up positions with public prisons. The

reasons for this were twofold. One was due to the slightly higher pay that public prison officers received and the second was that Acacia is located approximately 60 kilometres from the Perth CBD and therefore those staff who were able to find employment at a public prison, that was closer to home, often took up that option, to save on daily travel to and from. It should also be noted that at a time when attracting staff was difficult, the public system at times targeted private sector staff for employment.

To address this issue, the second Contract had a clause inserted which allows the Contractor to apply to the Department to adjust staff wages in accordance with any salary increases that are provided to staff working in public prisons. The Clause is clause 4, Schedule 2 of the Acacia Prison Service Level Agreement

Employees who are Classified as Prison Officer Award Equivalents - Clause 9

Position	Average FT Hrs per Week	Prior to Registration				Effective from the first pay period on or after the date of lodgement with OEA includes \$520 Travel Allowance and Golf One Allowance (6%)			Effective from the first pay period on or after the 1 July 2009 includes \$520 Travel Allowance and Golf One Allowance (4%)			Effective from the first pay period on or after the 1 July 2010 includes \$520 Travel Allowance, \$125 Shoe Allowance and Golf One Allowance (4%)		
		OT Rate	Annualised Hourly Rate	Annualised Salary	OT Rate	Annualised Hourly Rate	Annualised Salary	OT Rate	Annualised Hourly Rate	Annualised Salary	OT Rate	Annualised Hourly Rate	Annualised Salary	OT Rate
Golf One Unit Manager	42	\$ 29.3339	\$ 29.3340	\$ 64,065.35	\$ 32.1654	\$ 32.1655	\$ 70,249.38	\$ 33.4520	\$ 33.5093	\$ 73,184.36	\$ 34.7901	\$ 34.8497	\$ 76,111.73	
Unit Manager	42	\$ 29.3339	\$ 29.3340	\$ 64,065.35	\$ 31.3320	\$ 31.3321	\$ 68,429.38	\$ 32.5853	\$ 32.6427	\$ 71,291.56	\$ 33.8887	\$ 33.9484	\$ 74,143.22	
Security Shift Custodial Officer	42	\$ 20.4286	\$ 26.3121	\$ 57,465.64	\$ 21.8924	\$ 28.1289	\$ 61,433.56	\$ 22.7681	\$ 29.3113	\$ 64,015.91	\$ 23.6788	\$ 30.4838	\$ 66,576.54	
Case Management Custodial Officer	42	\$ 20.9170	\$ 25.8590	\$ 56,475.95	\$ 22.4101	\$ 27.6486	\$ 60,384.62	\$ 23.3065	\$ 28.8118	\$ 62,925.00	\$ 24.2388	\$ 29.9643	\$ 65,442.00	
Canine Handlers	42	\$ 20.9170	\$ 25.8590	\$ 56,475.95	\$ 24.6064	\$ 30.3638	\$ 66,314.61	\$ 25.5907	\$ 31.6356	\$ 69,092.19	\$ 26.6143	\$ 32.9010	\$ 71,855.88	
Custodial Officer (Casual)	N/A	\$ 20.3479	\$ 20.3479	N/A	\$ 21.5688	\$ 21.5688	N/A	\$ 22.4315	\$ 22.4315	N/A	\$ 23.3288	\$ 23.3288	N/A	
Industries Custodial Officer	45	\$ 21.4952	\$ 21.4952	\$ 53,093.26	\$ 24.7462	\$ 24.7462	\$ 57,906.14	\$ 25.7788	\$ 25.7788	\$ 60,322.39	\$ 26.8100	\$ 26.8100	\$ 62,735.29	
Trainee Custodial Officer (Induction)	38	\$ 16.4095	\$ 16.4095	\$ 32,425.20	\$ 17.6572	\$ 17.6572	\$ 34,890.71	\$ 18.3635	\$ 18.4268	\$ 36,411.34	\$ 19.0981	\$ 19.1639	\$ 37,867.79	
Security Shift Officer (L2)	42	\$ 21.0186	\$ 27.0720	\$ 59,125.22	\$ 22.5178	\$ 28.9344	\$ 63,192.76	\$ 23.4185	\$ 30.1490	\$ 65,845.47	\$ 24.3553	\$ 31.4008	\$ 68,579.29	
Security Shift Officer (L3)	42	\$ 21.6022	\$ 27.8237	\$ 60,766.91	\$ 23.1364	\$ 29.7312	\$ 64,932.98	\$ 24.0619	\$ 30.9777	\$ 67,655.30	\$ 25.0244	\$ 32.2626	\$ 70,461.51	
Case Management Officer (L2)	42	\$ 21.5007	\$ 26.5806	\$ 58,052.02	\$ 23.0288	\$ 28.4135	\$ 62,055.15	\$ 23.9500	\$ 29.6073	\$ 64,662.36	\$ 24.9080	\$ 30.8374	\$ 67,348.85	
Case Management Officer (L3)	42	\$ 22.0842	\$ 27.3019	\$ 59,627.45	\$ 23.6473	\$ 29.1781	\$ 63,724.99	\$ 24.5932	\$ 30.4025	\$ 66,398.99	\$ 25.5770	\$ 31.6644	\$ 69,154.95	

8. Is there a difference in the amount of days lost to industrial action at Acacia CC and publicly run prisons in WA?

Since opening Acacia Prison in 2001, there have been a total of 2 days lost due to industrial action by staff at Acacia Prison – this occurred in 2003 when AIMS Corporation were operating the prison and staff stopped work due to staff numbers in a particular part of the prison. The matter was resolved when AIMS agreed to increase the staffing by one in the affected area. There has been no industrial action that I am aware of in regards to the CS&CS Transport Contract since the contract commenced.

When I asked the Department's industrial relations staff to provide me with the number of days that had been lost due to industrial action in the public system, they stated that they were unable to provide an accurate figure, as often stop work meetings at individual sites was not recorded as lost time. However there had been at least 2 full blown State wide strikes that have occurred over the last 7 years where prisons officer's withdrew their labour completely (Acacia did not join these strikes and continued to work) for periods of two to three days at a time.

It may be of interest to note that the officers employed at Acacia Prison are not part of the State's Prison Officer Union (WAPOU) but come under the Public Service Union (CPSU – CSA) and the Miscellaneous Workers Union and the majority of their staff are Union members.

9. Western Australia is the only jurisdiction to make the private prison contracts available to the public.

- a) What do you believe are the benefits of making these contracts publicly available?

The publication of the contracts provides public assurance that the process of management of the prison and prisoners is transparent. Publication also provides information on contract expectation to potential providers thus providing a sense of competition to the current service provider.

10. Can you outline the accountability mechanisms for the Acacia Prison operators?

The accountability mechanisms for Acacia lay both in the strength of the contract and the compliance management by way of on site monitoring and strong contract management.

- a) How do you believe these accountability mechanisms could be strengthened?

We do not believe the accountability mechanisms could be strengthened anymore than what currently exists by way of the contract and compliance monitoring. We have had very few issues in regards to accountability with the Contractor and any issues that arise in this area will be dealt with by the joint Board of Management Committee, which comprises of senior representatives from both the Department and Serco. Serco fly senior representatives (at Serco's cost) from their Home Office in the United Kingdom, to attend meetings which are held every quarter.

11. Are private security guards currently used in perimeter security of prisons?

- a) If so, are there any differences in the service provision between private and public security guards?

Private security guards are not employed as perimeter guards in Western Australian prisons.

- b) If not, what do you foresee as potential issues that may arise from the use of private security guards?

There is potential for a reduction in the seamlessness of services as one contractor may operate with a differing agenda to the other. It is seen as sensible to allow one provider to provide all of the necessary service thus ensuring the capacity for the contractor to take full responsibility for the service provision.

12. Are health services at Acacia provided by Serco? The Committee has heard that it is important to have independence between the agencies responsible for delivering and operating prisons as opposed to delivering health services for the prisoners within those systems.

- a) Would you like to comment on this view?

Health Services at Acacia Prison are provided by Serco. In the past, Serco purchased pharmaceuticals from the DCS Pharmacy Services and DCS provided medical practitioners. It was believed that those practices removed the autonomy from the service provider and stifled any form of innovation in terms of health services for prisoners. Serco now employ their own medical practitioners, dentists, auxiliary health professionals and nurses and also purchase their pharmaceutical supplies from a local community business.