

Submission
No 254

**INQUIRY INTO THE PRIVATISATION OF PRISONS AND
PRISON-RELATED SERVICES**

Name: Mr Michael B Hay
Date received: 26/02/2009

Submitted by

Inquiry into the privatisation of prisons and prison-related services.

TERMS OF REFERENCE.

That General Purpose Standing Committee No. 3 inquire into and report on the privatisation of prisons and prison-related services in NSW, including:

1. The impact of privatisation on:
 - a) Public safety and rates of escape
 - b) The incidence of assault on inmates and staff
 - c) Disciplinary breaches
 - d) Overcrowding
 - e) Prisoner classification levels
 - f) Rehabilitation programmes, mental health support services and recidivism rates
 - g) Staffing levels and employee conditions
2. The comparative economic costs of operating public and private facilities and the impact of privatisation on publicly managed prisons
3. Accountability mechanisms available in private prisons
4. Future plans to privatise prisons or prison services in NSW, including the Court Escort Security Unit
5. The use and effectiveness of private security guards in perimeter security of Prisons
6. The experience of privatisation of prisons and prison services in other Australian and overseas jurisdictions
7. Any other relevant matter.

Sir/Ma'am;

I am submitting this paper to protest into the privatisation of Cessnock and Parklea Correctional Centres and the privatisation of the CESU [Court Escort Security Unit].

I am a prison officer [rank: 1st class] and have been for the passed twenty years. I am also a state executive of the POVB holding the position of Assistant Secretary.

I will not be supplying a lot of statistics and references but try and supply material from a worker's point view and knowledge from years of service.

I started employment with the NSW Department of Corrective Services in August, 1989.

I started in the CIP [Central Industrial Prison]. 1989 to 1992.

MRP [Metropolitan Remand Centre]. 1992 to 1995.

Malabar Periodic Detention Centre. 1995 to 1998.

Parramatta Correctional Centre. 1998 to 2006.

Wollongong Periodic Detention Centre. 2006 to present.

I would like to respond to the reference items in point form.

1. The impact of privatisation on:

a) Public safety and rates of escape.

Response:

In reference to the public safety and escapes from private prisons, due consideration must be given to the staffing levels.

Profit is made through savings. Savings are made through the reduced facilities that are provided in the private system.

It is well known staffing levels in the private system are far less than that of the public system. This is only due to the profits that can be made through savings in wages.

The public system **does not** have clauses of acceptable deaths in custody, escapes, inmate assaults, staff assaults. We take our job a bit more seriously.

The rates of escapes have continued on a downward trend for the past ten years, as shown in the 1998 Audit report, page 7.

b) The incidence of assault on inmates and staff.

Response:

In my twenty years of service to the department, I have seen many things. Death, assaults, sexual assaults you name it I've most likely seen it or been involved in it at some stage.

An inmate or inmates involved in an assault/incident will consider his/hers surroundings and plan the assault or it will be a spur of the moment thing and it will happen no matter what the surroundings are. I have noticed over the years most inmates will look around and see how many staff is on duty. The lesser the numbers of staff on duty the more likely something will happen. For we are the one that run to the rescue and give the alarm and the assistance.

The Department of Corrective Services have a chart/spread sheet called KPI's [Key Performance Indicators]. This chart shows the number of incidents that happen around the state, in all correctional centres. This chart reflects on the centre and on how it is perceived to run by the department heads.

c) Disciplinary breaches.

Response:

I do not believe the statistics in a privately run facility will reflect the true figures, due to the staffing levels private gaols run on.

This record of breaches will depend on the number of staff that is rostered on duty for the shift. It is the eyes and ears of staff on duty that reports the breaches of discipline in correctional centres and if these eyes and ears are reduced then the number of breaches is also reduced.

Again I would revert to the DCS chart of the KPI's, But to really get a true figure it would be the records held in the correctional centre itself that would show the true correct figure. Some breaches are minor and these breaches would not reflect on the KPI's

d) Overcrowding.

Response:

Warehousing seems to be the best description for the privately run prisons. In viewing several research documents, the privately run centres have the greatest amount of inmates in them. Sometimes double of the public prisons. With reduced staffing levels, both on "custodial and programs" to maximise profits it would seem to me the development of programs to reduce re-offending would take a back seat.

I have heard reports of over medicating the inmates in private prisons [June] to achieve compliancy. If this is so I believe a review of their medical charts would prove this to be true or false. Because of the privacy acts I can not supply this information, but maybe under this inquiry the committee could obtain this information?

e) Prisoner classification levels.

Response:

It has been said many times, the privates get the easy inmates. No high risk inmates, few remand inmates. Easy money.

f) Rehabilitation programmes, mental health support services and recidivism rates.

Response:

Through my employment with the DCS I have seen many inmates come and go. It always seemed to be the one's with a low education are the one's that keep on coming back to gaol. Bad reading and writing, no job skills. There's not much of a future there.

The **programmes** we have now, are they good enough? It appears not, or we would not be in this position. What they are like in the private gaols I can only assume to be of a lesser level to the public gaols as cost in the private centre is the overriding factor.

I have thought for a long time we need to change things. Music classes in gaols. Couldn't the money be better spent? Maybe at their gaol of classification, as recreation, but not in a remand centre. There are a lot of areas in the programmes unit that could be better utilised.

There are some very good classes in gaol and I believe the reading and writing programmes should not only continue, but expand and be made compulsory for those inmates that can not read or write.

For those inmates doing longer sentences, anything to do with trade skills would benefit the chance for employment upon release. Which is why I think the works release program is one of the best. Inmates upon release not only walk out of gaol with money in their pocket, but a job to go to.

A complete audit of programmes would be recommended on where and how they can be used more efficiently and effectively.

Mental health support services in the system today is of far greater benefit to inmates, staff both custodial and support of what it was only years ago. Drug's in centres. What a question, the answer is yes, and there are a lot of them. What we find or confiscate is a small percentage of what remains.

It depends on many factors, the centres location, the types of visits [contact], even some of the staff. I think the staff factor is pretty much under control. There hasn't been a report of a staff member bring anything into a centre for quite awhile. But it will happen again some where down the track, and when that does happen we will dam him/her put them in gaol and continues on.

g) Staffing levels and employee conditions.

Response:

Staffing levels seems to be one of the major costs to the department. In a correctional centre it is a part of their budget and that factor should be calculated into the running and routine of the centre.

A lot of the centres the department own and run are old as highlighted by Stewart Little [PSA senior industrial officer for POVB] at the hearing on Monday 20th February 2009. These old centres are more expensive to run and maintain due to their age and design. Justice Marks has toured some of the old and new correctional centres as part of the Wayforward negotiations between the DCS and POVB, and even he could see the difference of the layout.

In these older centres the staffing levels are one of the main factors to security of the centre, inmates and staff and to reduce the staffing levels is to reduce the safety. The state executives of the POVB have talked with DCS on trying to introduce some new technology into the department, but as to date they think it is unnecessary. Hopefully one day.

The staffing levels in the private section are lower than that of the public system, and the turn over of staff is higher. Again the profit margin is the main factor. This makes me think of an old sane "the lust for money is the root of evil", but this is the world we live in and money is the name of the game.

2. The comparative economic costs of operating public and private facilities and the impact of privatisation on publicly managed prisons.

Response:

One of the recommendations in *Value for money* report was that at least one correctional centre in NSW should be private. This is just the old game of being completeive. Where one is played of against the other. I personally do not have a problem with one private gaol in the state, but to have too many would be asking for problems in the long run as other countries have and are having.

We all know it's cheaper, that's why they're here. But there's an old sane, 'YOU GET WHAT YOU PAY FOR'.

The DCS has for some years now been using video links for court appearances and this has been very effective in reducing the costs of transport.

The use of casual correctional officers [which I do not agree with] has reduced the overtime payments, thus a great reduction in costs, and that is the big issue the department has been advertising. With the use of casuals, this is merely another version of a flat rate of overtime. The state executives of the POVB have asked the DCS to sit down and discuss one award, state-wide for all prison officers employed within the DCS. We are still asking.

The wages in a privately run prison is about \$10,000 per annum less than that of a correctional officer in a public gaol, again the profit margin.

I will attach Auditor General's reports for the DCS, for your information. It does highlight some interesting points on costs, inmate numbers, staffing levels and surplus to the DCS, from 1998 to 2008.

3. Accountability mechanisms available in private prisons.

Response:

There's an old saying in the prison system. What happens behind the walls stays behind the walls.

This will depend on the contract for the centre, but there are Act's and Human Rights that guide the conditions.

It all depends if the breaches get out. Doesn't it.

<http://www.ppsiru.org/justice/PPRI61.htm>

Reference from website page.

AUSTRALIA

Group 4 spends so Port Philip penalties waived

Group 4 has solved its recent problems at Port Philip Prison in Victoria, according to the state's minister for corrections, Andre Haermeyer (see *PPRI* # 61, 59, 57, 56, 51-49, 45, 42, 37-34 & 28-15). In response to questions from parliament's public accounts and estimate committee he said:

"There was a default notice issued against Port Philip Prison on 22 October last year and that related to a number of what we considered serious security deficiencies in the way the prison was being run. On 7 and 8 May targeted searches of that prison revealed a small handgun loaded with five bullets, mobile phones and a significant quantity of drugs and a digital camera. There was a subsequent security breach on 15 August where a sick prisoner was unable to be located for more than seven hours and that constituted a failure

to provide the movement and control of prisoners which the prison is required to provide for.

We thought that these failures to comply were in breach of the prisons management specifications and our advice was to issue a default notice under the terms of the contract that we are being required to demand of that prison, that it delivers us a cure plan. That cure plan has to outline the rectification tasks that the prison will undertake. That cure plan was delivered to me on 26 November 2003. It contained 31 tasks which were broken down into 118 different work commitments which were to be completed by 29 February 2004. These had to be agreed to by the correctional services commissioner and I approved that plan.

On 11 March I received advice from the correctional services inspectorate that 113 of the 118 work commitments had been fully implemented and the other five were being satisfactorily progressed. On 17 March I advised the commissioner that I considered the default plan had been satisfactorily remedied.

I might note that the prison did go a bit further than we actually required of them in the cure plan, and it has resulted in a significant capital expenditure by the contractor to the order of about half a million [Australian] dollars which involves a major refurbishment of the prison entry reception area and the vehicle sally port. It also includes enhanced security features including increased security check point screening and scanning equipment. So we think they have significantly lifted their game as a result of the implementation of that cure plan and I so am satisfied with the action they have taken in response to those deficiencies.

I do not think there were any financial implications for the state. The state has the capacity to withhold performance fees or to financially penalise the contractor but given the expenditure that the contractor invested over and above what we actually required of them in the cure plan it was recommended that the option to impose a financial penalty be waived since they had already made a significant financial sacrifice over and above what we would have imposed on them in terms of the financial penalty."

Extra payments

A\$10 million in additional payments have been made to the prison operators Group 4 and GEO after their respective prison service agreements were renegotiated. Mr. Haermeyer told the committee: "... the contractor has a 20 year build, own operate contract. At the end of the first four years there is a renegotiation of the prison services agreement which is simply the process by which the operator runs the prison. We required, as a result of the deficiencies that had occurred in those prisons - and we negotiated this with both the remaining two private operators - we noted that there were some significant deficiencies in the way that they were required to operate under their prison services agreement and there were things like a tolerance for escapes. I think

one or both of them were allowed one escape a year. There was a tolerance for deaths in custody. These sorts of things we just will not cop.

So we negotiated a much tighter prison service agreement which also went to some more qualitative issues in terms of good prison management. As a result of that we have a better prison services agreement that has a cost. It has also been pointed out to me that we do have an increased flow-through of prisoners through Port Philip prison which increases their cost. We have also expanded the capacity of both these prisons." **Extracts from Government of Victoria, Public Accounts and Estimates Committee, Inquiry into 2004-05 budget estimates, Melbourne, 21 May 2004.**

<http://www.psiru.org/justice/PPRI61.htm>

Reference from website.

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4. Future plans to privatise prisons or prison services in NSW, including the Court Escort Security Unit.

Response:

I would first request that the DCS, PSA, COVB and POVB be given the option to negotiate for any future plans.

In today's economic situation we want to keep the jobs people already have and be competitive and also keep our money in the country.

Please consider talking first, before any actions are taken.

5. The use and effectiveness of private security guards in perimeter security of Prisons.

Response:

This will depend on the individual in his/hers performance in their duties. Some will be good and some won't. Which reminds me, what is the outcome of the ICAC inquiry into the escape from Long Bay? The inmate that walked straight out of the front gate [Boomgate].

Having correctional officers in these positions have the knowledge of the staff the centres the inmates and the routine. This can only benefit the security of the centre.

6. The experience of privatisation of prisons and prison services in other Australian and overseas jurisdictions.

There are hundreds of reports out about this topic and to go through them all would take some time. There are some reports that speak well for privatisation and some that don't. It is individuals thought of what is right, what is wrong, the life experiences, and their education on what will come out of this inquiry. Some of the panel will say yes to privatisation and some will say no, some might want to try and merge to two.

Will privatisation bring with it corruption?

I was at the public hearing on 20th February 09, and one thing that really hit me was Mr. Woodham's comments on how this is not about union bashing. It seemed to me it was a lot about union bashing. Mr. Mc Lean has stated at a meeting, I think at Cooma CC, that with the changes we have made already we are under budget. If this is the case then why are we even looking at privatising any centres? Just adopting the reforms state-wide seems to be working.

I could have used a lot of stats and figures in this submission but wanted to try and make a personal submission on just some of the things I know. I believe the public system is far superior to the privates, it's just we cost a bit more. To work out where we can make some cost cuttings is a question. Should we make them at 'THE COAL FACE'? No. This must be thought out through all the levels of the DCS.

When they [DCS] say they have made cuts at high levels when the clustering of centres happened, there were also several more positions created. [Assistant Commissioners etc]

Privatisation in the United States and Australia: A Comparative Analysis of the Modern Privatisation Movement in Corrections - [2001] BondLRev 6; (2001) 13(1) Bond Law Review 136

Joseph Sozzani

Privatisation and Corrections: The Ideological and Political Debate

Democratic societies face constant dilemmas about how best to respond to [the needs] of the criminal [justice system]...There are people who believe that only government departments can be held responsible for criminal justice programs, but there are others who believe that the private sector and community organisations have a role to play in this area.[26]

37. Privatisation has been viewed as a method of increasing efficiency and decreasing government costs in building, housing and managing prison populations.

Officials of city, county and State governments [in both Australia and the United States] claim that their treasuries are caught in a crunch between limited revenue producing capabilities and increasing demands for public services in many forms.[27]

38. Prison privatisation occurs at varying degrees and may take many forms. The most common form of correctional privatisation is contracting out or outsourcing through the use of organised tenders. Particular services which may be privatised include: health/ dental services,[28] alcohol and drug treatment, correctional facility construction, mental health services, prison operations, laundry services, catering services, education and even some forms of employment. Privatisation may involve the contracting out of prison management to a private corporation, or the fast tracking of prison construction by utilising a private corporation. In some cases, privatisation may include a combination of these forms. However, prior to examining the efficacy of privatising in the context of corrections one must examine whether or not

...the state *can* delegate its power in the criminal justice system generally, and specifically in the rights to imprison and use deadly force. [In western democratic society, especially in the UK, Australia and the United States]... the state developed through the assumption of sole responsibility and control of law-making, policing, adjudication and punishment, that is [what forms the basic principles behind], the rule of law [Emphasis added] .[29]

7. Any other relevant matter.

Response:

Community Offender Services [COS].

This is a program the Department is planning to hopefully reduce recidivism. The department was funded \$18 million from treasury for this program. To date, as I am lead to believe, the cost of this program has risen to over \$60 million, and is still not complete.

I have put the question to the Department; Mr. Ian Mc Lean. Deputy Commissioner.

"I believe you [the DCS] are taking vital funding from the centres to further fund the COS restructure". "I believe in doing this action it would greatly jeopardise the security of the centre". There was no response.

It was also stated at several meetings pertaining to the management plans for the centres that, the support staff [drug & alcohol, physiologist, welfare] would be taken out of the centres and placed in the COSP centres and would not be replaced within the centres. This would greatly disadvantage the inmates in centres that require these services, and how would this affect the custodial staff in the centres?

In my opinion, it is possible that some of what we are going through is to achieve the aim of the COS restructure. If this is the case we are robbing Peter to pay Paul and the reduced staffing levels left in the centres are paying the price and it will only be a matter of time before someone will be hurt.

Cooking the books.

Is it possible that the DCS have let this overtime issue continue on only to use it back against us for their own purpose? Statements in the press, "prison officers have been roting the overtime".

Mr. Woodham is the Commissioner of Corrective Services don't you think this man would and should know how much overtime is being used and in which locations, and if there seemed to be something wrong it would have been investigated and corrected before it got to this stage.

Unfunded positions.

This has always been the solution to the Departments problems. Approach the centres, talk to the local delegates that they [DCS] want to increase the inmate state and the additional positions required will be unfunded from the centres budget and will be manned from overtime.

This situation happened to me at Parramatta CC when the Department wanted to put a Periodic Detention Centre [PDC] in 1, 2 and 3 wing. I wanted the 20 positions to be funded. The reply was "NO". They can be manned on overtime.

Is it right in this time of economic problems to have our money [taxpayers] going overseas to the profit kettles of others? Mr. Rudd has put a stimulus package together to try and build up our economy, were money will go back into the country. The Department of Corrective Services is putting a package together to put money overseas.

In closing I would just like to state that I am appalled that publicly run correctional centres for over 20 years, where people are established now face this psychological turmoil. To have another private gaol in the state, OK make it one that hasn't been built yet or is being built, but not one that is established.

Not union bashing, please Mr. Woodham your cards are on the table.