INQUIRY INTO THE PRIVATISATION OF PRISONS AND PRISON-RELATED SERVICES

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Dear Committee Manager,

Submission by Justice Action into the inquiry of the privatisation of prisons and prison-related services

1. Introduction

Justice Action has made the issue of prison privatisation one of the key issues on our campaign agenda. We therefore welcome the invitation to make this submission.

Justice Action is a community-based, non profit organisation committed to protecting the rights of people involved within the criminal justice system, and ensuring that they receive safe, fair and just treatment. We ourselves are prisoners and ex-prisoners, lawyers, academics, victims of crime and community members.

In preparing this submission, we have consulted widely with not only these people, but also with prison staff, unions and international experts in the field of prison privatisation.

We have found that almost universally amongst them, the concept of privatisation of prisons and prison related services is vigorously opposed. We have also found that where privatisation has been introduced outside New South Wales and indeed internationally, it has proven to be the worst of all prison management solutions.

Justice Action strenuously opposes privatization of prisons and prison related services for the reasons described in this submission.

2. Executive Summary

Justice Action addresses the terms of reference of this inquiry in paragraph 3. The rationale for our opposition to prison privatisation on which our comments are based are that:

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2.1   *It is Morally Wrong*

It is a fundamental attack on the democratic social compact between citizen and state.

The replacement in our prison system of the state by corporations, leads to an inherent obscenity associated with the concept of corporations making money from the misery of others.

In our view, it is completely inappropriate for the mandate of law and order given to government to be outsourced to a commercial venture. This is particularly so in view of the fact that a corporation's primary duty is to its shareholders and not the public, when it is in fact the public that is the source of the law and order mandate.

2.2   *The Corporate Model is not Appropriate for Prisons*

It leads to:

- low standards of care
- the profit motive being placed before moral considerations of human dignity and welfare
- citizens being incarcerated in greater numbers and for longer periods to satisfy the demand for growth all corporations must have to survive.

Prisoners are and must be part of the community. Only the public community model is acceptable in a democratic community (see attached paper of Lily Newbold).

2.3   *Financially, it is not a better Model*

There is considerable evidence that the outsourcing of prisons and prison related services does not in the longer term, save government money when compared with the publicly run model.

2.4   *It is Incompatible with Reducing Recidivism*

The rate of recidivism in NSW is Australia's highest, being around 43.7%. This is more than 10% higher than a comparable state such as Victoria. This imposes a huge economic cost on NSW not to mention a huge personal cost on both victims and their families and offenders and their families. The shortcomings described in this submission of introducing privatisation will only increase this rate.

3. **Responses to the Terms of Reference**

Preparatory comment

The terms of reference to this inquiry refer to many issues beyond our expertise, such as the use and effectiveness of private security guards in perimeter security of prisons. Where issues of this kind are raised, we rely on other organisations such as the prison officers, to provide a comprehensive response to the issue.

General comment

The corporate model requires:

-     a maximising of profits for its shareholders which mitigates against discretionary spending;

-     the imposition of a statutory duty to put the interests of its shareholders before any other interests; and

-     growth of its business in order to grow profits

These requirements make corporations completely inappropriate to operate a public enterprise of prison services.

Any examination of the impact of privatisation on prisons and prison related services must keep in mind that corporations are first and foremostly concerned with maximising profits for their shareholders. This means that where a prison corporation can cut costs, it will – its duty to its shareholders is its major concern. Any impact of privatisation on services to prisons and prisoners must be looked at through this prism.

We believe this profit motive creates an impossible tension between the rights of shareholders and the rights and welfare of prisoners. This, by itself, demands rejection of the corporate model.

1.   **The impact of privatisation on:**

(a) public safety and rates of escape

In relation to public safety, we take the view that in a prison context the biggest danger to public safety is the current high rate of recidivism amongst the prisoner population. A high recidivism rate self evidently means recently released prisoners are again breaking the law and creating more victims.

The current recidivism rate with male offenders in NSW stands at around 43.7%, the highest in the country and nearly 10% higher than a comparable state such as Victoria.

For the reasons outlined in our submission below, privatisation will do nothing to lower and may well increase this financially and morally unsustainable statistic.

In relation to rates of escape, we take the view that this is not an issue. Even if rates of escape increase (and we are unaware of any overseas evidence which shows this is a trend in privatised prisons), where escapes have occurred in NSW, there have been few incidents where escapees have harmed members of the public.

(b), (c) the incidence of assaults on inmates and disciplinary breaches

Our research finds that the overseas experience with privatisation shows that privatised prisons stand for minimum standards of care and poorly resourced prisons.

It is natural against this background that prisoners will become upset and dissatisfied with their treatment. Such aggravation is likely to lead to increases in the rates of assault. As the Victorian experience with the then newly privatised Port Phillip Prison showed, it can also lead to high numbers of suicides. As mentioned in an article by Stephen Nathan, Port Phillip Prison had the highest rate of suicide in the state[1].

The problem will be exacerbated because privatised prisons generally operate on minimum staffing levels which means supervision is reduced and the opportunity to commit assaults and commit suicide increases.

(d) overcrowding

Under most privatisation models, prison corporations are paid based on the number of prisoners supervised in each prison. In our view, the temptation to maximise profits by maximising prisoner numbers thereby leading to overcrowding will be too much for prison corporations to resist.

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[1] Nathan, S. (June, 2000) *Private Prisons: Battle lines drawn over prison privatisation in Ontario*, CPPA Monitor

(e) prisoner classification levels

Prisoner classification is an important part of a prisoner's progress through the prison system. In many ways, it is the first step in a prisoner's rehabilitation program. It controls such things as time out of cells, levels of security, visiting rights, access to prison based employment and exercise facilities. In many respects it is a reward for good behaviour.

The overriding consideration in determining prisoner classification should be based on issues directly relevant to the prisoner. As mentioned in our general comment, when the profit motive implicit in a corporate prison culture takes over, financial considerations may well be more important than issues directly relevant to the prisoner.

For example, it is cheaper for a prison corporation to keep prisoners locked in their cells because less staff are required during lockdowns. There is therefore a real temptation for a prison corporation to resist reclassifying prisoners as being at a lower risk level because classification at a lower level generally means prisoners are permitted out of their cells for longer periods of time and therefore manpower costs to supervise them are higher.

(f) rehabilitation programmes, mental health support services and recidivism rates

If rehabilitative programs that teach life and employability skills, and clinical services that are aimed at prisoners addressing their offending behaviours are not paramount in corrections, then the prison system will not be effective in protecting the community through reducing crime. A private prison corporation needs return business, but with each returnee and with each new customer, harm is done to the individual victims and the community as a whole.

Victoria learned from the failure of privatisation and when it established Marngooneet Correctional Centre in Lara as a purpose buily and operated 'Treatment Community that prepares prisoners for a successful crime-free release from prison', it did so by a partnership agreement that sees the land owned by the State, but the buildings and the maintenance provided by a private operator. The prison and clinical staff are all government employees *(Sentence Management Manual*, 2007, Appendix I, p.A1.21)[2].

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[2] Sentence Management, Corrections Victoria. (2007) *Sentence Management Manual*, Department of Justice – Corrections Victoria

In relation to recidivism, the current rate of recidivism in NSW is unsustainable. Quite apart from the moral undesirability of having such a high rate, it also imposes a huge cost on the state's budget with the annual cost of incarceration of the average prisoner approaching $78,000.

The NSW Government has set itself the aim of reducing the recidivism rate by 10%.

Given the shortcomings in the corporate model of prison privatisation outlined above and given the fact that by privatising Parklea and Cessnock prisons, the government will effectively lose direct control over 2 of its most important prisons, we cannot see how the rate of recidivism in NSW can possibly be helped by privatisation.

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

The decision by the NSW government to privatise Parklea and Cessnock prisons was based on positive prison privatisation recommendations in a 2005 report of the Legislative Assembly *'Value for Money from NSW Correctional Centres'*[3].

Jane Andrew of the School of Accounting and Finance, University of Wollongong and Damien Cahill from the University of Sydney, attacked the report's conclusion that the privatised model of prison management delivered superior value for money. In their paper, *'Value for Money? Neoliberalism and NSW Prisons'*, Australian Accounting Review 2008, they concluded that *'the report is fundamentally flawed on its own terms'* (at page 3), and was driven by concepts of ideology rather than any cost data evidence of financial savings (at page 24)[4].

On the evidence provided in this paper, the privatisation financial model is certainly no better and is in fact worse than the publicly funded alternative.

It is interesting to observe that the authors of the paper come from an accounting background and the paper attacks the report and privatisation from an economic perspective rather than a moral perspective.

We believe that the moral and social justice arguments are just as strong.

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[3] New South Wales Public Accounts Committee, *Value for Money from NSW Correctional Centres,* NSW Legislative Assembly, Report No. 13/53 (No. 156), September 2005

[4] Andrew, J & Cahill, D. (2007) *Value for Money? Neoliberalism and New South Wales Prisons,* "Faculty of Commerce – Accounting and Finance Working Papers", Paper 16

3. **Accountability mechanisms available in private prisons**

Privatisation weakens accountability. We believe this is an area of government responsibility where accountability is vitally important. The then New Zealand Minister for Corrections correctly summarised the position when he said: *"The management of prisons involves the exercise of some of the State's most highly coercive powers against individuals. There needs to be direct accountability for the exercise of such powers, and that can best be achieved through a Government department directly accountable to a responsible Minister"*[3].

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

We take the view that part privatisation of prisons and prison related services in NSW is a retrograde step.

Firstly, we believe that because of the obvious tension between privatised and non privatised prison officers within the system, the necessary interaction between them when they perform their duties, will lead to the welfare of prisoners being ignored as incidents of infighting between prison officers from those groups occurs.

Already we have anecdotal evidence of incidents of abuse and threats being traded between these groups. This will only increase particularly when they interact together as they must with the privatisation of the Court Escort Security Unit.

This is obviously not good for prison services in NSW and will impact detrimentally on the welfare of prisoners who become in many ways 'the meat in the sandwich.'

In addition, a divided prison service leads to blurred edges around where the government services end and the privatised services begin. In an atmosphere of tension between the 2 groups, there will be a natural tendency to blame each other if anything goes wrong and indeed 'manufacture' breaches by the other.

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

We refer to our preparatory comment in para 3 above. We leave it to prison officer groups and those more qualified than us to make comment on this issue.

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[3] Hon Paul Swain, Hansard, Legislative Assembly, 7/5/04

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

The experience of privatisation in Victoria and overseas has shown just how inappropriate the corporate model is to prison privatisation. In particular it has shown:

The Profit Motive means Minimum Standards

The profit motives ensures that corporations will only spend as much as they have to when running prisons. That means they will not have the necessary regard to moral considerations of human decency and welfare, which are so important in a prison system. A study conducted by Biles and Dalton found that in Victoria, the privatised Port Phillip, Deer Park, and Arthur Gorrie prisons, all have higher rates for deaths and suicides than the Australian average[5] *(Jane Andrew in the Journal 'Critical Perspectives of Accounting' at page 886)*

Australian Correctional Management (one of the tenderers for the Parklea and Cessnock prisons), was caught taking clothes from charities to avoid purchasing them for prisoners, until St Vincent de Paul discovered the scam. They then tried to get clothes from the Uniting Church who refused to supply them when they realised what was happening *(Andrew at page 891)*.

Growing the Business of Prison Management is not in the Public Interest

In the corporate world, businesses need to grow to survive. Stephen Nathan, a leading prison privatisation expert, in the March 2008 edition of the Independent Monitor says that means privatising prisons *'requires more people in the criminal justice system for longer and is squarely at odds with the public good.'*(page 26).

In the United States the need to grow has led to prison corporations being accused of joining with and funding right wing 'shock jocks' to ramp up the law and order debate so that they can have more people jailed to grow their profits. The more frightened the public is, the more they will pay.

Just as worryingly, a recent media report revealed that 2 US judges had pleaded guilty to taking bribes from prison corporations to extend the sentences of prisoners coming before them for sentencing. They admitted doing this to increase the length of the prisoners' incarceration, thereby maximising the profits to the prison corporation that bribed them[6].

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[5] Andrew, J (2007) *Prisons: the profit, motive and other challenges to accountability,* in Critical Perspectives on Accounting, No. 18 pp. 877-904
[6] Author Unknown, *Judges Jailed kids for money,* Reuters, February 13th 2009 http://www.news.com.au/story/0,27574,25048468-23109,00.html).

Low Standards of Care

Privatisation of prisons has been shown to provide unacceptable outcomes in the standards of care involved in the management of prisons. Stephen Nathan in the same article referred to above disclosed that a recently leaked report placed 10 of the 11 private prisons in the United Kingdom in the bottom quarter of the performance register of all UK prisons. He concluded this *'showed they are consistently worse than their publicly run equivalents*[7]*.'(at page 24)*.

New Zealand opened its first and only privately run prison in July 2000, however, the current government did not renew the private operator's contract and has recently legislated against private prisons[4]. In Canada, the first and only privately run prison opened in Ontario in 2001. After the five-year contract expired, the Canadian government did not renew the contract.

7. Any other relevant matter

Moral Issues

Privatisation of our prisons is a fundamental attack on the democratic social compact between citizen and state. It is a move from the penal colony to the corporate colony with a loss of accountability and the transfer of power to corporations.

Government is empowered to manage the justice system of its citizens with the mandate of its citizens. It is a responsibility that is not capable of division. A government by being given the right to incarcerate its citizens has also been given the power to impose the ultimate sanction of punishment available in our society. It therefore has a moral obligation to be responsible for the conduct of that sanction. It must ensure first hand that the sanction is properly and humanely imposed.

The replacement of the state by corporations in the running of our prisons, leads to an inherent obscenity in the concept of corporations making money from the misery of citizens, which includes both the victims and the offenders. Prisoners are human beings; they are not chattels to generate profits for shareholders.

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[7] Nathan, S. *Blind Faith in Private Prisons*, in Independent Monitor, March 2008, Issue 93

[4] Corrections Act 2004 (assented to 3 June 2004). See NZ Department of Corrections website: http://www.corrections.govt.nz/public/PolicyAndLegislation/correctionsact/.

The Importance of the Public Community Model of Prisons

Historically, it has been shown that the most effective system of prison management is the public community model. Attached is a paper prepared by Lily Newbold, Bachelor of Social Science (Criminology) University of New South Wales, which demonstrates how effective this model can be when properly resourced and implemented.

Privatisation of our prisons quite simply means that this model can never be introduced in privatised prisons.

4. Prisoner comments

In the course of preparing this submission we have sought comment from prisoners who have experienced privatisation in other Australian states.

One response in particular stands out:

Bernie Brown – former inmate of the privatised Borallon Prison in Queensland.

'Prisoners after all, are people not assets for business manipulation toward profits...
Fight the privatisation people, believe me, it's not the way to go.'

5. Conclusion

This submission concludes that from all perspectives whether they be based on moral, business, economic, social justice or reform considerations, the privatisation of prisons and prison related services, simply does not work.

Justice Action is proud to share this view and work with the Community Justice Coalition, Unions NSW, the PSA and the prison officers themselves to oppose any move towards privatisation.

Yours faithfully

Michael Poynder
Coordinator

Legislative Council

Inquiry into the privatisation of prisons and prison-related services

Prisons as Part of the Community

Paper by Lily Newbold

Bachelor of Social Science (Criminology), University of New South Wales
27th February. 2009

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Current examples of Government contradictions and community responses

"Social exclusion is...a short-hand term for what can happen when people or areas have a combination of linked problems, such as unemployment, discrimination, poor skills, low incomes, poor housing, high crime and family breakdown. These problems are linked and mutually reinforcing. Social Exclusion is an extreme consequence of what happens when people don't get a fair deal throughout their lives, often because of disadvantage they face at birth. The disadvantage can be transmitted from one generation to the next. [1] *"*

Introduction

This report has been commissioned on behalf of Justice Action. Justice Action is a community-based, non profit organization committed to protecting the rights of people involved within criminal justice system, and ensuring that they receive safe, fair and just treatment.

The community is made up of numerous interacting networks, with the ability to protect its members if it believes it is under threat. In the general community ex-offenders are seen as a threat, and therefore they are excluded on purpose from joining the community.

Significant developments in exclusion/inclusion theory have permeated much social thinking in Europe and the UK over the past 5 years[2]. This results in the recognition of the harm individuals and groups suffer when their human rights are ignored and they are structurally excluded from the community. Unfortunately those in prison and detention and under various orders tend to be among the most excluded, limiting their chances of being social included into a community. In order to be socially-included offenders need to contribute to social life in economic, social, psychological and political terms. However, to do this they require the personal capacity as well as the access to employment and other social roles.

Those with a mental disturbance, a drug problem, an intellectual disability, without social skills or education or employment prospects and without support, are just going to continue to cycle in and out of courts and prisons. Following the decline of the welfare state or nanny-state, these individuals have nowhere to go. Communities and families are now expected to manage and support people with mental and intellectual disabilities and those without employment skills. The resources to do this are very meagre and prison has become the default institution for many such "difficult" people[3].

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[1] Merton, R & Bateman, J (2007) *Social Inclusion: Its importance to mental health,* Mental Health Coordinating Council

[2] Baldry, E. & Maplestone, P. *Barriers to Social and Economic Inclusion for those leaving prison,* in Human Rights Defender, no. 11, 2003

[3] Baldry, E. & Maplestone, P. *Barriers to Social and Economic Inclusion for those leaving prison*

What is a Community?

Traditionally a "community" has been defined as a group of interacting people living in a common location. In which people are organised into a group around common values and social cohesion within a shared geographical location. Each community interacts differently with authority figures as well as other communities. However, with the rise of the Internet the concept of a community being confined to a geographical location no longer applies. People can now virtually gather in an online community around common interests no matter their physical location.

Within these communities the members share a degree of social capital, which are a set of values and rules, which binds the community together.

Frances Fukuyama describes social capital simply as "society's stock of shared values," to Robert Putnam it is the "networks, norms, and trust that enable participants in a society to act together more effectively to pursue shared objectives. Unlike other types of capital, which can decrease through use, social capital is depleted when not used. Within our community networks and civic interaction there are two subtypes of social capital. Putnam identified these subtypes as, bonding social capital, which refers to the value, assigned to social networks between homogeneous groups of people and bridging social capital, which refers to that of social networks between socially heterogeneous groups. Typical examples are that criminal gangs create bonding social capital, while choirs and bowling clubs create bridging social capital. Bridging social capital is argued to have a host of other benefits for societies, governments, individuals, and communities.

Many have argued that today's society is lacking in social capital and that this is a major reason why the crime rate has increase since the 1960s[4].

International initiatives for Social Inclusion

> ### United Nations

UN-HABITAT, The United Nations Human Settlements Programme, is mandated by the UN General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. The agency's budget comes from four main sources. The vast majority in the form of contributions from multilateral and bilateral partners for technical cooperation. It also receives

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[4] Graycar, A. *Crime and Social Capital*, Australian Crime Prevention Council 19th Biennial International Conference on Preventing Crime, Melbourne, 20th October, 1999
http://www.aic.gov.au/conferences/other/graycar_adam/1999-10-acpc99.pdf

earmarked contributions from governments and other partners, including local authorities and foundations, and around 5% from the regular UN budget.

Social Inclusion work targets those most vulnerable groups in society who find themselves marginalized. The General Mainstreaming Unit of UN-HABITAT strives to broaden gender equality and women's rights into all of UN-HABITAT's activities by supporting and strengthening gender awareness. Like the agency's Partners and Youth section, it works with local authorities, non-governmental organizations, youth groups, governments and municipalities to promote better opportunities for those living on the margins of society.

> **United Kingdom**

The Social Exclusions Task force was set up in June 2006, based within the Cabinet Office, reporting to Liam Byrne, Minister for the Cabinet Office. The task force endeavors to coordinate the Government's drive against social exclusion. Allowing for the cross-departmental approach delivers for those most in need. Championing the needs of the most disadvantaged members of society within Government. Ensuring that as with the rest of the public service reform agenda. The task force is committed to evidence-based policy-making, working together with stakeholders and giving a voice to disadvantaged groups within governments. It is comprised of three teams, families at Risk and Pilot team, performance, analysis and innovation team and stakeholder team.

Australian Government initiatives for Social Inclusion

Australian Federal Government Initiative

As an election commitment in order to highlight the disadvantage within the community, the Australian Government has created the Ministry for Social Inclusion. Julia Guillard as Minister for Social Inclusion and Ursula Stephens as the Parliamentary Secretary Assisting the Prime Minister for Social Inclusion.

To be socially included, all Australians must be given the opportunity to: [5]

- *Secure a job;*
- *Access services;*
- *Connect with family, friends, work, person interests and local community;*
- *Deal with personal crisis; and*
- *Have their voices heard;*

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[5] *http://www.socialinclusion.gov.au/default.htm,* last update unknown, 30/1/09

The government has established a Social Inclusion Committee of Cabinet, a Social Inclusion Unit in the Department of the Prime Minister and Cabinet, and the Australian Social Inclusion Board in order to fulfill the priorities mentioned below.

The early priorities for social inclusion have been identified as being:[6]

- *Addressing the incidence and needs of jobless families with children*
- *Delivering effective support to children at greatest risk of long term disadvantage*
- *Focusing on particular locations, neighborhoods and communities to ensure programs and services are getting to the right place*
- *Addressing the incidence of homelessness*
- *Employment for people living with a disability or mental illness*

The Federal government will provide $14.6 million over five years in order to establish the Social Inclusion Unit in the Department of the Prime Minister and Cabinet. This unit will have a role in policy advice and coordination of the Government's social inclusion agenda, operating in conjunction with the new Social Inclusion Board[7].

The Social Inclusion Board members bring a broad range of skills and experience to the Board, each had a record of achievement in the private, public or non-for-profit sector. The members are, Patricia Faulkner (Chair), Monsignor David Cappo (Vice Chair), Elleni Bereded-Samuel, Dr Ngiare Brown, Dr Ron Edwards, Ahmed Fahour, Dr John Falzon, Kerry Graham, Eddie McGuire, Tony Nicholson, Dr Chris Sarra, Professor Fiona Stanley, Professor Tony Vinson, and Linda White.

On 26th February 2008 Prime Minister Kevin Rudd announced the formation of a Social Inclusion Committee of Cabinet, chaired by himself with the deputy Prime Minister, Julia Gillard as the Deputy Chair.

New South Wales Government Initiative for Social Inclusion

Released November 2006, the State Plan for NSW outlines 34 priorities and 60 targets, which are to be addressed over the next ten years. The State Government initiatives emphasis the provision of early intervention and prevention programmes for at-risk individuals and groups. They have developed a draft Prevention and Early Intervention Policy Framework, which will be trialed over the next 12-18 months, to

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[6] *http://www.socialinclusion.gov.au/default.htm,*
[7] *Prime Minister and Cabinet: Election Commitments,* http://www.budget.gov.au/2008-09/content/bp2/html/expense-21.htm

carry out the requirements of the State Plan. This will embed the principles of prevention and early intervention in all Government agencies.

The purpose of the NSW State Plan is to deliver better results for the NSW community from government services[8]. This does not cover everything the state government does; efforts will be focused upon priorities in order for improvement.

The State Plan focuses on five areas of activity of the NSW Government: [9]

1. *Rights, Respect and Responsibility - the justice system and services that promote community involvement and citizenship.*

2. *Delivering Better Services – key services to the whole population including health, education and transport.*

3. *Fairness and Opportunity – services that promote social justice and reduce disadvantage.*

4. *Growing Prosperity Across NSW – activities that promote productivity and economic growth, particularly in rural and regional NSW*

5. *Environment for Living – planning for housing and jobs, environmental protection, arts and recreation.*

NSW State Government and the Prison community

Within priority R2: Reduced re-offending, the state government will reduce the proportion of offenders who re-offend within 24 months of being convicted by a court or having been dealt with at a conference by 10% by 2016.

Recent actions include an increase in supervision and support of offenders in an effort to reintegrate with the community. Increasing the availability of transitional accommodation for offenders after release from custody on community based order. And introducing a compulsory drug treatment program which will cater for 70 repeat male offenders with long term illicit drug uses and constant imprisonment. Aiming to break the drug-crime cycles and help these offenders take personal responsibility to lead productive crime- and drug-free lives. The patterns of drug use within correctional centers have highlighted the importance for ensuring comprehensive screening of inmates on entry by the corrective health service. The long-term goals are to identify a treatment program to suit the needs of the individual and continued care on both reception to and release from the correctional system.

Involving comprehensive drug and alcohol services incorporating:

-   Detoxification Services;

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[8]http://www.nsw.gov.au/stateplan/index.aspx?id=76bf6dc0-229c-402e-8331-9bae2a6743be, last update 8/08/07,
[9] http://www.nsw.gov.au/stateplan/index.aspx?id=76bf6dc0-229c-402e-8331-9bae2a6743be

- The Methadone Maintenance Program; and
- The Drug Court Program

In the 2007 update to the State Plan, Corrective Services said its initiatives to reduce reoffending included an "Intensive Supervision Program" for released offenders, shifting the emphasis of psychologists' services from prison-based to community-based, and a Malabar-based residence, Balanda, which could house 70 indigenous released inmates.

However, a recent study from the Bureau of Crime Statistics is pessimistic about the department's chances of reducing re-offending[10];

"The NSW State Plan promises to address these issues by providing better services for offenders on community-based orders and promoting greater inter-agency co-operation in their provision...these undertakings are critical because...intensive supervision on its own does not reduce recidivism. Without improvements in the level and type of treatment and support for offenders placed on community-based sentencing order, it will be very difficult to achieve the State Plan goal of a 10% reduction in reoffending by 2016"

Unintended consequences of Imprisonment

Within the State Plan, requires the combination of rehabilitation and education in order to reduce the rate of re-offending and social exclusion. At present, offenders carry the burden of being social excluded even though specific policies have been created in order to achieve social inclusion. The actions of the NSW Corrective Services contradict both the NSW State Plan policies and the federal social inclusion initiative.

"A serious attempt should be made to redirect resources from custodial to community-based resource. The government and the department need to reduce their obsession with prison security and have more open and minimum-security jails.[11]"

Professor David Brown

While prisoners are physically excluded from society, many would have experienced degrees of social exclusion prior to imprisonment and will continue to experience social exclusion upon release[12].

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[10] Knox, M & Tadros, E. *Plan to arrest high rates of return*, in The Sydney Morning Herald, December 8th, 2008
[11] Knox, M & Tadros, E. *Plan to arrest high rates of return*

➤ Family separation and break-up

The impact of a prison sentence is not only felt by the offender but also by family and the greater community. Families face the full brunt of the economic costs as well as personal costs of a prison sentence. The strain of the separation and loss of a reliable income can often lead to a family break up. If offenders are to achieve a relatively stable lifestyle post-release, continued contact with family and friends is needed.

Research shows that prisoners have a lower rate of marriage including de facto relationships and higher proportions of individuals who have never been married.

For the family and friends of offenders, the separation can often result in limited or no contact for an extended period of time. Families are often put off from visiting relatives, due to the lack of transport, inconvenient or limited visiting hours and the poor conditions of the visiting areas. The majority of correctional centers in NSW are in rural areas, a number of which are considerably difficult to access for those with limited transportation. On arrival, family and friends are subject to complicated search and entry procedures, as well as an environment, which is not very family friendly. Offering little by way of privacy or comfort or adequate facilities for children, discouraging future visits.

At present there is a lack of consistent and timely entry information, without which visitors may not adhere to rules and long hauls to prisons may be wasted because of a poor understanding of visitation procedures.

➤ Separation of children from their mothers

The separation from families can often prove too strenuous leading to family break ups or disruption for the children. If this does occur the children might be relocate or enter the care of the state. Research shows that children are the unintended victims of a prison sentence. With many children of prisoners less likely to complete secondary school and more likely to become homeless or unemployed and more likely to come into contact with the juvenile justice or criminal justice systems. The likelihood of the children of an imprisoned parent ending up in prison increases by 6 times, they are also six times as likely to have mental health problem.

The NSW upper house inquiry into children of prisoners reported[13]:

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[12] McPherson, T & Lyons, M. (date unknown) *Towards Social Inclusion for Ex-offenders through Employment*

[13] Beyond Bars: Alternatives to Custody, *Fact Sheet 6: Are Prisons cost-effective?*,

"Although the literature on controlling or reducing recidivism is dismal, the little literature that there is suggests that maintaining community ties is absolutely essential in maintaining the bond between the prisoner and his family...these bonds are central to any attempt to try and reduce recidivism"

The separation from children can be highly difficult for female offenders, resulting in long-term mental health problems. At times it can be highly traumatizing for both mother and child to be separated for an extended period of time. If no family is available to take care of the child, they can often become state wards increasing their exposure to situations, which would result in prison sentences. By increasing the contact between mother and child during the early stages of development the possibility of continued offending in later generations can be prevented. Research findings on the long-term effect of mother/infant separation and the effects of the short-term traumatic separation; show that separation has a long term and devastating effect on the child's emotional, physical and mental development.

From December 1981 until December 1996 no woman in the custody of NSW gaols was able to care for her young child while serving a prison sentence[14]. The New South Wales Department of Corrective Services endorsed the *Women's Action Plan* in 1994 to address the issues of women in Prison. The recommendations within this plan allowed for the development of a program specifically orientated towards children and mothers who are servicing a prison sentence.

The guiding principles of the *Mothers and Children's Program policy* require that the program is in the best interest of the child, and that imprisonment in itself is neither evidence of a mother's lack of desire nor of her ability to perform her parental duties. However, participation in the full time residence program is the option of last resort, to be utilized where there are no satisfactory alternatives for placement of child or children available[15].

Much like the stigma faced by offenders post-release, the children of offenders can often face the same exclusion from the community. It might be argued that children can experience the same long-term effects of the separation as their parent, such as mental health issues, limited education as well as employment opportunities.

http://www.beyondbars.org.au/facts.htm
[14] Loy, Madeleine, *A Study of the Mothers and children's program in the NSW Department of Corrective Services*, http://www.aic.gov.au/conferences/womencorrections/loy.pdf
[15] Loy, Madeleine, *A Study of the Mothers and children's program in the NSW Department of Corrective Services*

> **Institutionalisation**

Due to the environment of prisons and other correctional facilities, many offenders have poor living skills. This can increase the chances of re-offending in turn continuing the separation from family and friends. Programs which untilise cognitive behavioral therapy are needed within prison to enhance the ability of offenders to reason and problem solve, to anticipate the consequences of actions, and to develop alternate and appropriate ways of coping with stressful situations allowing the offender to return to a stable lifestyle.

73% of NSW offenders were given no information on accommodation or support pre-release[16]. By providing detailed and easily accessible information about how to access government services and community support systems. The transition from prison to home would avoid the frustration and difficulties of dealing with multiple agencies in the community. If offenders were gradually taught to cope with the enhanced responsibility of daily life post-release, they would be less likely to return to their previous lifestyle and the familiar environment of prison. At present there are no pre-release facilities, which would allow offenders to adapt to a change in environment, especially those who are close to finishing their sentences. There needs to be continued participation in formal programs, and the provision of a level of structure and support in order to reduce the chances of offenders being overwhelmed by the pressures of independent living.

> **Substance abuse and poor health care**

In 2004 it was reported that each day 25 new prisoners entered the system requiring detoxification. The report by NSW Corrections Health surveyed a sample of nearly 1000 inmates on remand and after sentencing in early 2001. It was found that two-thirds of newly received inmates and almost 40% of those who had been sentenced were drug dependent, with heroin and opiates the most common drug[17].

By addressing the alcohol and drug issues of offenders, it would be possible post-release to direct offenders away from environments, which would encourage re-offending

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[16] Baldry, E. & Maplestone, P. *Barriers to Social and Economic Inclusion for those leaving prison*, in Human Rights Defender, no. 11, 2003

[17] Jacobsen, G. *Prisons cannot handle drug and mental health burden, report says*, Sydney Morning Herald, January 2nd, 2004

"If the Government wants to reduce reoffending in the next five to 10 years they should provide drug treatment and especially methadone maintenance treatment to all eligible people in the community and in prison." [18]

Kate Dolan, Associate Professor at the National Drug and Alcohol Research Centre

The harm minimization approach within prisons in the 1980s and 1990s prevented a major outbreak of HIV in the prison system. However, it did not stem the spread of another serious blood borne virus, Hepatitis C. This virus can survive outside the body on microscopic speaks of blood and can withstand bleach sterilization. Within the prison population of NSW, 40% of males and 64% of females are positive to Hepatitis C. Needle syringe programs are shown to reduce Hep. C transmission by 80-90% among injecting drug users. One third of Australia prisoners are estimated to be infected, rates are higher amongst women. There is about one chance in seven that an uninfected NSW prisoner will contract Hep C in prison. With upwards of a 1000 new infections appearing behind bars each year. If those infect are to be released into the community there is the high chance that they could spread the disease further. The stigma of not only being an ex-offender but also being a drug user can at times be too much to handle. The social exclusion is incredible high for these people within the community. The state government owes a duty of care for these offenders, which can be achieved by allowing a proper needle exchange program.

HIV rates are also consistently higher in the prison system then in the general community. Despite a 1996 study of 14 recently released HIV positive prisoners, revealing seven prisoners contracted HIV in the prison system, with 5 of these seroconversions genetically sourced to one prisoner. The prison system refuses to implement a needle exchange program, despite their success in Switzerland and Germany. Or introduction of other schemes such as allowing prisoner's access to Narcotics Anonymous and expand methadone program access, particularly for short sentences prisoners.

At present it might be argued that the NSW state government allowance of $130 million for assessing, classifying and rehabilitating offenders is insufficient. In order to reduce the rate of re-offending more should be given to rehabilitation programs in a community environment with the enhanced involvement from family and friends. The state government appears to be ignoring their duty of care that is required to be given to all prisoners.

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[18] Knox & Tadro, *Plan to arrest high rates of return*

Section 16(1) Every prisoner shall be supplied at the public expense, with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers, and may be so supplied with such medical attendance, treatment and medicine as in the opinion of the Commissioner will alleviate or remedy congenital or chronic condition which may be a hindrance to rehabilitation.

Prisons Act 1952

> **Mental illness**

For offenders who suffer from mental illness or psychosis, NSW Corrective Services has previously accommodated them within the prison hospitals. These establishments are unable to deal with the individual nature of the medical treatment needed by these offenders. In order to cater for the needs of these individuals a forensic hospital within the Long Bay Correctional Complex has been built. However, until these individuals are processes and classified they remain within the restrictive and unproductive environments, which is typical of the prison hospitals.

The mentally ill within the NSW prison system feel the social exclusion two-fold. These people have normally been found to be so unfit that they have never been tried and therefore, have never been convicted of an offence. Not only are they separated from the general public behind prison walls but they are now also being excluded from the prison community.

The patients of the Long Bay Prison Hospital face a particularly harsh existence. Inmates are locked in their 2.5x3.5m cells for 18 hours a day, which is likely to exacerbate their psychotic symptoms. It costs $70,000 per prisoner per year to incarcerate an individual. At $200,000 per patient per year the cost of confining forensic patients is almost treble that amount.

Not only is this policy cruel and in humane, it also goes against a number of government regulations, procedures and policies. Such as section 12.4 of the Department of Corrective Services Operation Procedure Manual, section 153 of the *Crimes (Administration of Sentences) Regulation 2001, the Mental Health Act 2007*, and article 5 of *the Universal Declaration of Human Rights,* which states that;

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Not only is this practice in direct violation of the *Universal Declaration of Human rights*, which Australia is a signatory of, it also contradicts section 68 of the *Mental Health Act 2007*, which states that;

"People with mental illness or mental disorder should receive the best possible care and treatment in the least restrictive environment enabling the care and treatment to be effectively given."

It has been noted that the number of serious incidents have declined. By this logic the Minister would argue that all prisoners should be locked in their cells for 24 hours a day and thereby reduce the number of serious incidents to zero. However, confinement must be balanced with periods outside of cells and interaction with other human beings as part of the rehabilitation.

The treatment of forensic patients is fundamentally a means of reducing staffing costs and is not humane nor an improvement in treatment. Prior to 2nd, April 2008, patients were not confined to their cells until 9pm; the new lock-in time of 3:30pm has been in force for almost 11 months. This is the result of the removal of 28 guards from Long Bay, a clear cost-cutting exercise. Resulting in the failure of Corrective Services to acknowledge and abide the duty of care that is the patients' due.

By continuing the early lock-in regime, NSW Corrective Services are not only exacerbating the prison experience. But they are continuing the suffering of the patients, limiting rehabilitation as well as increasing the potential for re-offending post-release.

Amongst the prison population there is a higher level of mental illness then in the general community. This severally disadvantages offenders in terms of interacting with justice officials pre- and post-release. The needs of these offenders are often unmet because of difficulties associated with identifying these individuals. As well as the limited availability of services in correctional centers to deal with these individualised needs. The limited ability of these offenders' social networks to assist in dealing with their offending in turn resulting in higher levels of recidivism.

"We're find that these people, compare with non-mentally ill in the system, have higher numbers of convictions but shorter sentence, and are the ones cycling in and out of jail" [19]

Associate Professor Eileen Baldry

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[19] Knox & Tadro, *Plan to arrest high rates of return*

These offenders often come from socially disadvantaged backgrounds including poor education and high rates of unemployment, resulting in high levels of homelessness post-release. Corrective Services should take note of the case management model of service delivery within the mental health system, this is seen a being particularly effective with mentally disordered or developmentally challenged offenders.

➤ Education services

Various sources suggest that although offenders are as likely as the broader population to have attended school, however they seem far less likely to have completed senior high school. Research untaken by professor Tony Vinson in 1995 showed that about 85% of inmates left school in year 10 or below[20]. The low educational level is more pronounced in those who have had prior prison experiences than those without, with at least 65% of inmates entering the correctional system with low to non-functional literacy, numeracy and communication skills. A met-analysis of mostly US studies, examining custodial work programs, education and vocational training showed lower average recidivism and higher average employment rates for participants relative to non-participants.

"Research indicates a correlation between low levels of literacy, low economic status and imprisonment"[21]

        As stated within two annual reports from the NSW Department of Corrective Services

At present, NSW Corrective Services allow a number of AEVTI and NSW TAFE courses and other special programs such as a Mobile Outreach Program in their correctional centers. All courses are nationally accredited and each education center has a library, including either a law library or provision of assistance with legal matters. However this is not mandatory, and in many correctional centers the opportunity to participate in course and to access libraries has been severely impacted upon by lockdowns[22]. There is also no legislative basis to the claim that inmates have a right to participate in education programs. There is no statutory guarantee of the provision of education and vocational training programs, including libraries and access to legal resource and reference materials in NSW. Nor do inmates currently have a statutory right to participate in education and vocational training programs, or to access libraries and resources.

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[20] De Graaff, P. *Imprisoning the future*, The New South Wales Teachers Federation, June 2002
http://www.nswtf.org.au/edu_online/34/imprison.html
[21] De Graaff, P. *NSW Corrections Education Campaign*, in "The Australian TAFE Teacher, Winter 2005
http://www.aeufederal.org.au/Publications/TATT/Win05pp24-25.pdf
[22] De Graaff, P. (date unknown) *NSW Corrections Education Campaign*,

If offenders are given the opportunity to complete a level of vocational training this might allow for stable employment post-release. However, post-release monitoring would be required to ensure that offenders are continually going to interviews and work, and not returning to criminal activity for an income.

> **Employment initiatives**

Post-release offenders find the burden of the stigma attached to being an ex-con, can result in limited employment opportunities. Australian research indicates that having employment and being a student is a significant factor in staying out of prison and it is argued that there is a direct link between offenders' employment opportunities and their mental health. The stigma of being an unemployed offender can often severely and sometimes permanently damage offenders' progress post-release.

The lack of employment opportunities may be limited by an inability for the offender to access adequate hosing, low levels of education and poor literacy. Correctional Interventions designed to promote post-release employability will need to account for aspects of the prisoner that are linked to unemployment e.g. housing as well as initiative that can combat the unspoken discrimination of potential employers.

A Victorian government research has shown that there is an over representation of people with intellectual disabilities and acquired brain injuries, mental illness, 3-4 time higher, in prison population than in the general community.
In order to combat the unemployment rate amongst offenders, the Victorian government has implemented a number of initiatives.

The *Corrections Long Term Management Strategy*;
Reduce the incidence of recidivism and assist prisoners and offenders to adopt and maintain law-abiding lifestyles by assisting them in to a range of pre-release and/or community-based diversion programs.

The *Correctional Services Employment Pilot Program;*
Reduce the cycle of re-offending by providing real employment outcomes for prisoners and offers.

The JOBFutures/CSEPP initiatives are funded to provide, vocational advice and training in prisons and community, assistance with job search and placement, post placement support to client and employer when appropriate, and support and advice to client to ensure long-term employability. Of those who are

registered in the program as of 8th June 2004 only 105 or 4.7% re-offended. Compared to the rate of re-offending by those who had a placement through the initiatives, only 26 or 3.8% re-offended.

> **Housing assistance**

Although there are service provisions that include housing for ex-prisoners in NSW, the lack f a comprehensive policy framework within which these programs can operate makes it difficult for prisoners to access housing services[23]. Post-release, offenders can find themselves in a situation where there is limited to no access to affordable accommodation. Many lose accommodation or housing due to imprisonment, resulting in homelessness on release from custody. This is a common occurrence of offenders who end up back in prison.

At present the Department of Public Housing and community housing providers have no prisoner specific projects. Of the community housing providers listed in Meehan's report only one reported having any prisoner specific projects. Furthermore, only one of these had a policy of sending information about their housing services to the local prisons unless it was specifically requested[24].

The limited information available hints at higher levels of unstable housing i.e. no fixed address, hostels, refuges or shelters, and lower levels of accommodation in private dwellings among prior prisoners when compared with first time prisoners or those who have never been imprisoned. In 2002/03 the Australian Housing and Urban Research Institute undertook a study exploring prisoners' post-release housing circumstance, social integration and connections with re-offending.

They identified three factors as being significant in participants' staying out of prison:
1. Having relatively stable accommodation;
2. Living with parents, partner or close family;
3. Having employment or being a student; and
4. Having access to 'helpful' agencies.

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[23] Meehan, A. (2002) *Report on pre and post-release housing services for prisoners in NSW*, http://communityhousing.org.au/Publications/Reports_by_Fed/Full_Rpts/Research%20Reports/prisoners%20report. pdf
[24] Meehan, A. (2002) *Report on pre and post-release housing services for prisoners in NSW*,

Placement of offenders into stable accommodation upon release requires close cooperation between corrections, public housing services and private housing providers[25]. To ensure that services are timely, offenders should have access to information and assistance relevant to their community of return before release. If possible it would be more appropriate for short-term prisoners to maintain existing accommodation as well as connecting prisoners to housing assistance or the provision of affordable housing. The Victorian Government program should be used to inform policy and program development in NSW.

"The Victorian Government's Transitional Housing management (THM) – Correctional housing Pathway initiative is a collaborative pilot initiative providing dedicated public, transitional housing or assistance in obtaining housing, and appropriate support services for ex-offenders. Housing placement workers who assess the risk of homelessness coordinates this and other needs pre-release, and if necessary aim to maintain housing already held by short-term prisoners." [26]

Prisoners, forensic detainees, ex-prisoners and people on remand are eligible for assistance from the NSW Department of Housing, however they must meet Housing NSW's eligibility criteria. During their sentence prisoner's can apply for public housing and remain on the housing register while they are in prison, as long as Housing NSW knows about their situation. If offenders are already in possession of a Housing NSW property, assistance can be given to the tenant in order to make arrangements for their tenancy while they are absent. However, in order to keep the property while they are absent offenders must reassure Housing NSW that the rent will be paid, the water usage charges will be paid, the property will be looked after, and there is a good reason for going away. It is more then likely that none of the above criteria will be met during an absence or imprisonment. The Housing NSW website does not list imprisonment as one of the reasons for an extended absence.

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[25] Borzycki, M. *Interventions for Prisoners Returning to the Community; A Report prepared by the Australian Institute of Criminology for the Community Safety and Justice Branch of the Australian Government Attorney-General's Department.* February, 2005

[26] Borzycki, M. Interventions for Prisoners Returning to the Community

Current examples of Government contradictions and community response

> **The Social exclusion felt within Public Housing Estates**

In an earlier study, *Community Adversity and Resilience,* Professor Tony Vinson believed that the neighbourhood in which you live makes a difference, particularly in early childhood and adolescence[27]. This study found that a small proportion of the areas surveyed, 587 postcodes in NSW, accounted for a large proportion of reported problems. 1 in 4 unemployed people in NSW lived in just 5% of the postcodes, while 1 in 4 admissions to prison each year came from about 3% of the postcodes[28].

In Vinson's' 2004 study, *Dropping off the Edge,* 2.1% of Victoria's postcodes and only a slightly larger fraction in NSW account for 25% of al those who go to jail in the course of a year[29]. The survey of NSW and Victoria revealed that poverty and disadvantage are entrenched in particular regions. Vinson ranked suburbs by indicators of socio-economic disadvantage, including low family income, unemployment, criminal convictions, disabilities, lack of school qualifications, child abuse and limited computer access. Professor Vinson said his findings;

"Demand recognition of a common pattern associated with inadequate education and training, unemployment, low income, poor health and 'making ends meet' by criminal means, resulting in high rates of convictions and imprisonment.[30] "

In large scale research funded by the Australian Housing and Urban Research Institutes, of approximately 350 people being released from prison in NSW and Victoria were interviewed pre-release, and then at 3,6 and 9 months post-release. Baldry and Maplestone mention the results in the article *Barriers to Social and Economic inclusion for those leaving prison.* At the time of publication only 60% of participants had been interviewed. However, the findings indicated that 34% has been dependent on public or assisted housing prior to imprisonment.

Following disturbances in the Villawood public housing estate in 1995 there has been considerable speculation in NSW about the role which public housing estate design plays in influencing crime. However, the problems faced in the Villawood estate are not uncommon, crime problem have also appeared from time to time on other NSW housing estates, the most recent disturbance occurring in the

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[27] Author Unknown, *Pick neighbours with care: it may determine your chances,* in The Sydney Morning Herald, March 9th, 2004

[28] Author Unknown, *Pick neighbours with care: it may determine your chances*

[29] Transcript: *Postcodes and Poverty* on National Interest, ABC Radio National, 14 March, 2004
http://www.abc.net.au/rn/nationalinterest/stories/2004/1063666.htm

[30] Macdonald, E. *Hidden Battlers in ACT Suburbs,* in The Canberra Times, 27th February, 2007
http://www.canberratimes.com.au/news/local/news/general/hidden-battlers-in-act-suburbs/232556.aspx

first week of January 2009 on the Rosemeadow estate in south west Sydney. The unemployment rate at Rosemeadow is 7.9% compared with the national average of 5.2%

The key reasons behind the high crime rate of these areas is first the overall design of the areas and second the socio-economic demographic of the residents. Unfortunately, both play a role in the social exclusion felt by the occupants from the general community.

Many public housing estates in NSW conform to the Radburn design principle. This features dwellings facing each other around an open grassy space; vehicles are confined to the backs of the dwellings, which are linked to each other by pedestrian walkways and paths. The design is thought to encourage neighbourly interaction and allow for greater safety of children in communal areas. However, it is now thought that the design in fact causes crime problems because it creates opportunities for crime. Rather then the open space being 'communal' it is said to become a threatening 'no-man's' land. Residence cannot effectively 'police' their territory because its limits are not clearly marked, while rear access to cars and garages, hidden behind high fences, makes informal surveillance very difficult[31]. Such estates are recognisable different from surrounding neighbourhoods, making them easy targets for community criticism and stigmatisation of residents.

As suggested above the socio-economic demographic of the residents, might also result in the high crime rates of these communities. For example, young unemployed persons are both more at risk of involvement in crime and more at risk of becoming victims. Estates tend to have higher proportions of such people for the simple reason that public housing is targeted at hose who are most in need.

A majority of public housing estates in NSW were built during a time when the social profile of public estates did not differ significantly from other low to middles income areas[32]. Compared to a 1996 NSW Department of Housing report, which stated that 95% of public tenants depend on social benefits of some kind for their income. Further evidence now suggests that there is a considerable gap between the poorest and richest urban areas, as well as the emergence of geographically distinct 'ghettos' characterised by low socio-economic status[33].

By allowing the gap between suburbs and economic groups to widen, the state government is increasing the social exclusion felt within the lower economic areas.

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[31] Matka, E. (1997) *Public Housing and Crime in Sydney*, NSW Bureau of Crime Statistics and Research, http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/R41.pdf/$FILE/R41.pdf

[32] Matka, E. (1997) *Public Housing and Crime in Sydney*

[33] Gregory, R.G & Hunter, B. (1995) *The Macro Economy and the Growth of the Ghettos and Urban Poverty in Australia*, Centre for Economic Policy Research, Australian National University, Discussion Paper, No. 325

The high crime rates within estates are a result of the economic status of the community as well as the overall design of the areas.

> **Social exclusion within Prisons**

Imprisonment is the most extreme form of social exclusion, in that it removes people physically, mentally and emotionally from society, their community and family[34]. Findings now show that there is a link between inadequate education and training, employment opportunities, low income, poor health and criminal activity. The increase in disadvantage can have harmful consequences for the individuals and families affected by crime, which can spill over to the next generation.

The same argument used for the high crime rate within public housing estates can be used in regards to the rate of re-offending within the NSW Prison system.

The design of Prisons confirms the reality that offenders are being physically separated and restricted from contact with their families and friends as well as the general community. Evidence suggests that this is not an effective way of dealing with re-offending; this is recognized by justice authorities who implement pre and post release strategies to assist prisoners to become socially included on release in a bid to reduce the likelihood of them re-offending[35].

Many offenders have limited education, which results in limited employment opportunities. At times, criminal activity is thought to be the only way out of the cycle. However, if no rehabilitation or training is available or undertaken during the prison sentence post-release the cycle of re-offending all too often continues.

From the perspective of the media, government and general community the degree of social capital within the public housing estates and Prisons of New South Wales is considerably low. However, within these communities there is potential all that is required is appropriate forms of rehabilitation to ensure that these individuals incorporated into the general community post-release.

With the intended consequences of deterrence and retribution and high economic costs current government policies appear to have little to no effect on the rate of re-offending.

They do not all for effective management of the personal and professional set backs, of offenders post-release. By addressing the educational and training difficulties and alcohol and substance abuse problems

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[34] McPherson, T & Lyons, M. (date unknown) *Towards Social Inclusion for Ex-offenders through Employment* http://www.paccoa.com.au/2005%20Conference%20PDF%20files/Tracey.McPherson.Toward%20social%20inclusion.doc.pdf
[35] McPherson, T & Lyons, M. *Towards Social Inclusion for Ex-offenders through Employment*

of offenders whilst serving their sentences. The positive consequences can flow on into the families and communities.

> **Justice Action and Community Service Order Ban**

Much like the ban enforced on a member of Justice Action in regards to visiting the Emu Plains correctional facility. The withdrawal of Justice Action's agency status by the Department of Corrective Services is an example of how the department is attempting to exclude the prisoner support community. However, in 2006 this was stopped for spurious reasons. This ban is surprising, since Justice Action had had the same status for 24 years. In which Justice Action became known as a leader in the field. It is argued that the reason behind the ban is primarily due to the possibility that CSO workers will have contact with ex-offender.

"The principal reason Breakout was not approved for re-accreditation was the change to accreditation procedures adopted state-wide for community services orders. These changes have included greater scrutiny of agencies' aims, objectives and legal status, the nature of the work to be performed and the type and level of supervision of workers performing work at the CSO sites."

Brian Norman, Director Community Offender Services, Newtown District Office

One of Mr Normans' concerns was that CSO workers would be in contact with ex-offenders.

"Association by persons with criminal records is usually a factor which increases propensity to re-offend and we have to weigh up these risks against any possible benefits to be gained from particular placements[36]".

By continuing the policy of imprisonment, ex-offenders will continue to feel social excluded from the community. By allowing the interaction between to two groups, CSO workers can have an insight into the possibilities and opportunities for a successful rehabilitation.

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[36] Letter from Brain Norman, Director Community Offender Services to Brett Collins, Justice Action, *Re: CSO Accreditation,* 9th September, 2008

➤ Emu Plain visit restrictions

Continued interaction with family, especially children as mentioned above can allow for a successful release back into the community after imprisonment. However, the actions of the Department for Corrective Services contradict their desire to allow for successful inclusion and integration back into the community. Not only have Christmas Day visits been banned but also in May 2006 the department withdrew the traditional all-day visits for the women of the Emu Plains Correctional Center. Amendments to the policy were made; future visits were to be split into two parts, with a break between 11:30-12:30, allowing visitors to have lunch. This initiative overlooked the fact that visitors were already having lunch with the prisoners. All future visits would also require visitors to call and pre-book visits, which would be limited to two hours. Not only was face-to-face contact limited, the amount of phone contact has also been restricted. Previously the limit was 15 minutes with a 5-minute ban between calls, now calls are being limited to 6 minutes, with a 30-minute ban between calls. The Inmate Development Committee representing the women was told that "the change to visits is a trial to bring this prison into line with other prisons, and no further discussion will be entered into about it.

The state government argues that the policies they are implementing have the best intentions for the offenders. However, by allowing continued separation from children in particular they are exacerbating the experience. It is argued that prisons are not a place for children, however over seas experiences show that it is possible to easy the anxiety felt by offenders if they are allowed to bring their children with them. In the Spanish prison in the town of Aranjuez, located 40km south of Madrid there are 36 cell units available for families. At present 16 are occupied. The idea behind this practice is for children to bond with their imprisoned parents while young enough not to fully grasp the reality of incarceration and for inmates seeking rehabilitation to learn parenting skills. However, children are only allowed to stay with their parents until they are three. At this point they are returned to either relatives or into the care of the state.

"No one thinks it is an ideal situation — not the prison psychologist, nor the imprisoned parents themselves. But the arrangement beats the pain of separation[37] ".

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[37] The Associated Press, *Spanish prison offers family cell units for inmates with children*, in International Herald Tribune Europe, February, 5th 2007
www.iht.com/articles/ap/2007/02/05/europe/EU-FEA-GEN-Spain-Families-in-Prison.php

Denmark also allows for children to remain with their parents during a sentence. However, this practice also allows for partners to stay together. In the mixed sex jail, couples – with or without children – spend the day together in a special wing but they are locked up at night in separate cells. With the children spending the night with the mother. Not only does this practice take into account the bond between mother and child and its significance to the rehabilitation process. But it also recognizes that partners can also increase the success of rehabilitation.

Both Spain and Australia allow for children to remain with their mother until a certain age. However, in Bolivia children are allowed to stay much longer. The country's legislation allows children less than 6 years of age to stay in their parents' cells.

Mr. Molina, the head of Bolivia's penitentiary system, acknowledges that they remain in jail until they are much older "because nobody else can care for them."

This practice occurs in a number of Bolivian prisons, including the male prisons. In the detention centre of San Pedro, the most populated male prison in Bolivia's main city La Paz, there are 200 children. All children within the prisons receive meals and education under a government-sponsor programme. Humanitarian groups also supervise them.

It might be argued that this practice is not occurring primarily due to the stress caused by the separation. However, the children appear to be safer with their parents, they are less likely to become state wards or homeless. This in turn might prevent them from turning to crime.

The NSW government policy of separating family members seriously contradicts the notion that at the heart of a community is the family unit. By keeping the family unit relatively intact, they are encouraging social inclusion and increasing social capital.

> **Justice Action representative ban from Emu Plains**

This is an example of how on a micro level prison management endeavors to restrict community involvement and social inclusion.

On 5 August 2006, a member of Justice Action visited a prisoner at Emu Plains. He spoke with other visitors and gave them copies of the leaflet. Five days later, he was informed that that he would be banned from the prison for two years for "fomenting disharmony and conflict," "causing dissension" and "confrontation," "inciting visitors by the misleading, inaccurate and uninformed handouts," and ignoring

the fact that he had "been warned on numerous occasions." When he asked when the supposed previous warnings had occurred, and how exactly his document was inaccurate, he was told that a "semantic discussion" would not be entered into[38].

> **Ban on Christmas Day visits**

"Visits to inmates in New South Wales correctional centers are important for maintaining strong family relationships. They also assist in making it easier for people to readjust to life in the community when they are released."

Department of Corrective Services, NSW

As of 2007, the NSW Department of Corrective Services stopped Christmas Day visits. On 18th November 2008, Corrective Services Chaplain, Rev Rod Moore, said that visits were to be returned; however on 1st December, he said that for some unexplained reason, the Commissioner had reversed the decision. Around, 3000 children, mothers, fathers, wives and husbands and friends of prisoners will suffer the consequences of this decision.

The ban also conflicts with the UN imposed obligations on state authorities to ensure that a child's contact with their imprisoned parents is possible, Article 2(2) Convention on the Rights of the Child.

The ban on visits has received strong opposition from Church groups, including Bishop Manning from the Diocese of Parramatta and the Conference of Leaders of Religious Institute.

> **Refusal to allow Justice Action and the NSW Nurses Association to attend tour of Long Bay Hospital for the Upper House Inquiry**

In late December 2008, the Minister for Justice Hatzistergos rejected the Law and Justice Committee members requests for the Nurses Association and Justice Action to join the Parliamentary inspection as expert advisers. This leaves the mental patients to speak for themselves with guards present, despite the immense experience offered by both independent organisations. This is a blatant example of how the state government is intent on separating the community support networks and offenders. In turn continuing the social exclusion felt by offenders.

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[38]Justice Action, *Emu Plain Visits: Intimidation of Prisoners and Families*
http://www.justiceaction.org.au/index.php?option=com_content&task=view&id=229&Itemid=107 last update unknown

> **Early lock-in time at the Long Bay Prison Hospital**

Evidence highlights the contradiction that the NSW State Government believes that an early lock-in of 3:30pm is preferred by the patients.

The NSW Greens have received a petition from 41 inmates of the hospital asking for.an end to the regime, which has been called inhumane, barbaric and maddening. This practice goes against the assertion by the Minister and others from Corrective Services that the patients prefer the regime. It also goes against the *Universal Declaration of Human Rights*, as well as the *Mental Health Act 2007* and section 153 of the *Crimes (Administration of Sentences) Regulation 2001*.

Reports have also been sent to the Greens, stating that the consumption of Valium by patients has increase within the hospital, presumably as a way of coping with the stresses of the longer lock-ins and consequent aggravation of symptoms[39]. During a briefing of the crossbench last year a representative of the NSW Nurses Association spoke of the increased use of medication and sedation at Long Bay. Confirming the reports received by the Greens that this is a direct result of the lock-ins.

The change to the lock-in times has also had impact on the rehabilitation of the patients. Health professional in particular psychiatric nursing staff from the NSW Nurses Association believes the lock-in regime is detrimental to these inmates, resulting in daily work being constantly undone. There is clinical evidence of the deleterious impact of seclusion on mentally ill people.

David Crosbie, *Chief Executive Officer of the Mental Health Council of Australia*, believes that the new regime goes against the state governments duty of care with regards to prisoners with a mental illness, in fact causing exacerbation and/or prolongation of their illness[40]. The General Secretary of the NSW Nurses Association, Brett Holmes, confirms this belief, stating that;

"It is neither safe nor humane to detain and isolate mentally ill persons for prolonged periods. There is a wealth of evidence that indicates isolating mentally ill persons exacerbates their symptoms and increases their risk of harm. They require human contact and interaction to improve their mental health."[41]

Forensicare, which is the peak government forensic mental health authority in Victoria, has also outlined the impact of isolation on someone suffering from mental illness.

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[39] Parliament of New South Wales Legislative Council, *Long Bay Correctional Complex Hospital Lock-in Hours*, 13th November 2008, last update 24/11/08

[40] Parliament of New South Wales Legislative Council, *Long Bay Correctional Complex Hospital Lock-in Hours*, 13th November 2008, last update 24/11/08

[41] Parliament of New South Wales Legislative Council, *Long Bay Correctional Complex Hospital Lock-in Hours*

...Important element in coping with their active psychotic symptoms is the interaction both with mental health staff and with other custodial staff and fellow prisoners. Left to themselves the delusion and the hallucinatory experiences become the sole way in which they understand and experience the world. They lose both the reality checks provided by everyday social interactions and the opportunity to obtain some kind of therapeutic assistance through interactions with trained professionals. The effect of this over any lengthy period is to potentially drive them further and further into their psychotic state...[42]*

Professor Paul Mullen, the Clinical Director of Forensicare, 13ᵗʰ May 2008*

The early lock-in policy is the direct result of Corrections staffing issues, involving the removal of 28 guards. The effect of this cost-cutting is confirmed by the NSWNA, General secretary Brett Holmes, who said the union viewed the early lockdown as a cost cutting exercise, giving rise to serious concerns for the mental and physical well-being of patients and preventing nurses from giving adequate care.

The Assistant Commissioner of Corrective Services Luke Grant told the ABC in June 2008, that the decision was "not based entirely on economic rationale" but that "high levels of agitation and adverse incidents occurring in the afternoons," and surveys alleging some prisoners preferred the "quiet time" in their cells, has led to the decision. This quiet time involved shouting through windows, ganging on doors and banging heads against the walls, which is watched by the nurses who are unable to do anything on CCTV screens. This practice is detrimental not only to the rehabilitation of the patients but also the moral of the nurses.

> ➤ **Access restrictions to education**

It is all very well for the courses to be available, however offenders might still be restricted from attending them due to the *Crimes (Administration of Sentences) Act*, which requires offenders to demonstrate a willingness to participate in rehabilitation and development programs to bodies such as the Parole Board and Serious Offenders Review Council. However, neither the Act nor the Regulations guarantee that education and vocational training will be provided to inmates. The Regulations outline a range of delivery, but state that provision is limited to what the Commissioner 'may' provide for, rather then what the Commissioner 'shall' provide for in the way of education and vocational training programs.

"Each correctional centre offers a wider range of education and vocational training courses. Basic courses include reading, writing, maths, computers art and craft. Inmates who are Aboriginal or from a non-English speaking backgrounds can undertake courses in culture and English language. Additional

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[42] Parliament of New South Wales Legislative Council, *Long Bay Correctional Complex Hospital Lock-in hours*

vocational education and training is available in a number of work skill areas with support from Corrective Services Industries"

2004 Inmate Handbook published by the Department of Corrective Services

Education has also been recognized as an important part of the rehabilitation processes for offenders especially those who suffer from mental illness. The Iemma government of NSW has halved access to education programs available for the offenders in the new Department of Corrective Services forensic hospital at Long Bay. Even though the new Long Bay Hospital has purpose-built facilities in each ward to allow for the delivery of courses. The halving of access to education programs is seen as being a poor attempt to lower to costs of the hospital. Both the NSW Teachers Federation and the Greens have condemned this move.

John Kaye, NSW Greens MP, described the move as a callous attack on human rights saying;

"Education is a core component of rehabilitation. The loss of access to programs will leave inmates with a greatly reduced chance of recovering.[43] "

Apart from being a breach of Australia's human rights obligation, Kaye argues that by cutting the education program the government will drive up long-term costs as;

"The number of inmates who are able to leave the forensic hospital will be reduced as recovery from mental illness is impeded[44]. "

Action

> ➤ Paper as part of the JA presentation to the Legislative Council on the public/community model, as different than the corporate private sector model

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[43] Smith, K. *Long Bay education slashed*, The Richmond Fellowship, Green Left online, 26 July, 2008 http://www.rfnsw.org.au/index.php?option=com_content&view=article&id=228&Itemid=177

[44] Smith, K. *Long Bay education slashed*, The Richmond Fellowship, Green Left online, 26 July, 2008 http://www.rfnsw.org.au/index.php?option=com_content&view=article&id=228&Itemid=177

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