

Submission
No 208

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

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Date received: 27/02/2009

The privatisation of prisons and prison-related services (Inquiry)

I am writing to respond to the inquiry into the privatisation of prisons and prison-related services in NSW. I oppose privatisation of prisons and prison-related services in strong terms.

My research work concerns criminal law and, specifically, criminal law and mental illness. I am interested in the interface between expert medical and expert legal knowledge and thus in the incarceration of individuals who have been convicted of criminal offences and who have mental illnesses. As is well known, over and above the number of forensic patients detained in secure facilities, a large percentage of the prison population has one or more mental illnesses.

In recent decades, arguably as part of the shift from modernity to late modernity, prison has been seen less as a place for treating offenders and more as a place for containing them. Augmenting this approach to prisoners was the rise of a managerial ethos and an increasing emphasis on the administration of risk. Although the penal-welfarism of the post-war era has unravelled, and with it, appropriately funded and targeted provision for individuals with mental illnesses in non-custodial institutions and in the community, it has yet to be replaced by a fully re-configured new strategy that deals with crime, prisons and prisoners appropriately. Although the early 1990s saw some progressive penal reform, with the appearance of diversion schemes for young offenders, for example, from the 1990s, we have seen the rise of populist punitive penal policies, affecting both government rhetoric and prison policies, at both state and Federal levels. Managerialism and risk management have become major influences during this period, and it is to the disadvantage of prisoners as well as prison staff and, more broadly, the community.

In relation to prisoners with mental health issues specifically, the mutability of terms and classifications (such as personality disorder), which are inflected by prevailing scientific orthodoxies, and which interact with concepts such as treatability and criminality, has created an unstable and confusing terrain. These changes have affected the composition of the category of prisoners with mental health problems as well as the treatment that group received. Now, with the emphasis on prevention, and the rise of indefinite detention and related penal strategies, the situation for prisoners with mental illnesses is even more dire. Privatisation of prisons and services at this point would further damage the fragile position of individuals with mental illnesses in NSW prisons.

A wide range of sociological, criminological, historical, and other literature provides evidence of the deleterious effects of prison on individuals with mental illness. I urge to reconsider the plans to privatise prisons and prison services in NSW.

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