

Submission  
No 119

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

**Name:** Mr Paul Jones

**Date received:** 25/02/2009

---

27 February 2009

Dear Committee Secretariat,

I am grateful for the opportunity to make a submission to the **NSW Parliamentary Inquiry into the privatisation of prisons and prison-related services 2009**.

I am a Senior Correctional Officer, employed by the NSW Corrective Services. My service with the department is now over 15 years, having worked at a variety of locations including, Reception and Induction Centre (Long Bay), Metropolitan Remand and Reception Centre, Parramatta Correctional Centre, Metropolitan Periodic Centre, Wollongong Periodic Centre, Pre Release Program Unit, Yetta Dhinnakal Correctional Centre (Brewarrina), Tomago Periodic Centre and I am currently serving at Cessnock Correctional Centre.

I have completed the Certificate and Advanced Certificates in Correctional Administration (Southern Cross University), achieving an average of high distinction results. I have been a POVB union delegate since 2000 and the State POVB Vice Chairperson 2003–2005 (which included being involved with the controversial negotiations for the “Consent Award” for Kempsey, Dillwynia and Wellington Correctional Centres).

Along with my 15 years experience as a front-line correctional officer, this provides me with a unique understanding of my profession and of the issue of privatisation of prisons. Also, I will personally be impacted upon by the decision to privatise Cessnock Correctional Centre. Ironically, I am also a long-term member of the Australian Labor Party.

The comments and opinions expressed in this submission are mine as an individual and in no way represent the views of the Department nor the views of the Union.

I trust that my submission may shed some light on this parliamentary inquiry.

Yours faithfully,

*Paul Jones*

## Introduction

This submission to the privatisation of prisons and prison-related services 2009 parliamentary inquiry, is a personal presentation that is sometimes anecdotal, with reference to several public statements made by the former Minister for Justice John Hatzistergos and Corrective Services Commissioner Ron Woodham. A concerted attempt has been made to avoid industry specific jargon, as it for general reading. Whilst this submission does not specifically address points 1 – 6 of the “Terms of Reference”, it will include other relevant matters, such as:

- Insight into the “Consent Award” negotiations for Kempsey, Dillwynia and Wellington Correctional Centres and the privatisation threats (*page 3*)
  
- Privatisation Campaign becomes public (*page 7*)
  
- Government/Departmental reasons for the privatisation of Cessnock Correctional Centre and the conjecture that the lack of reasons have generated (*page 8*)
  
- Overtime culture of NSW Corrective Services, alleged overtime roting and benchmarking of sick leave levels with NSW Police Service (*page 10*)
  
- Rising Gaol Populations, Overcrowding and Pressure on Government to cut costs, privatise and casualise (*page 14*)
  
- Conclusion (*page 16*)

### "Consent Award" negotiations and the privatisation threats

During April 2003, my two-year tenure as the State POVB Vice-Chairperson commenced. During May 2003, the department launched its proposals for workplace reform, entitled "the way forward". The go ahead for the construction of three new centres had been approved. Negotiations between the department and the POVB/COVB/PSA with regards to how these centres would operate and the staffing levels required also commenced.

From the outset, negotiations were drawn out and tedious. Originally the department intended to introduce casuals into the system, to stem what they stated was a blow out in the overtime. The newly appointed Minister for Corrective Services John Hatzistergos informed POVB delegates that he wanted to "*inoculate*" the system from privatisation. Being a barrister, a wordsmith, he inferred that privatisation was inevitable, unless significant workplace reform was implemented. The State POVB Chairperson John Campbell and myself were elected on a platform, which included opposing privatisation and casualisation. The remaining POVB executive, Brian McCann and Tony Howen, who were elected unopposed, also supported this platform. The POVB executive were obliged to oppose these two concepts, and ultimately adhered to that platform.

During negotiations, the State POVB executive inspected the newly completed Kempsey CC. The executive were in agreement that the centre was well planned, well constructed and would have considerable labour savings, due to the technological and architectural advances. My opinion was that whoever managed this centre should be successful and be able to make significant saving on costs. The POVB executive could not allow the private prison corporations to tender for the management of the centre, as that may have been the catalyst for widespread privatisation of the entire system.

Achieving the correct staffing levels was paramount in my thinking. Safe staff levels are crucial in a correctional environment. It doesn't matter how big your pay packet is, if you greatly increase the risk of going home in a body bag. It's just not worth the risk.

The department's spearhead with the negotiations was the then SACICS Ian McLean. It was obvious from the outset that he was not in a position to make any decisions or agreements. He had to refer everything back to Ron Woodham. Accordingly, there was virtually no momentum with the negotiations, with Ron Woodham rarely attending. Apart from one meeting with John Hatzistergos, which the POVB/PSA initiated, he had no apparent input into these negotiations, save from making threats at POVB delegates meetings.

From the commencement the department was benchmarking the public system with Junee CC – the only privatised gaol in the State. The POVB/PSA counter to this was, ***“you can't compare apples with oranges.”*** This was not a stalling tactic, as the POVB/PSA steadfastly maintained that every centre in the system had its own unique operation, with varying inmate populations, classifications and centre design. Junee CC had its own very exclusive characteristics. Besides from this the POVB/PSA was not completely convinced that the figures that the department was divulging were actual. That a relatively low level administrative employee put these comparative figures on the table was unconvincing. The secrecy that surrounds the operation of Junee CC, even to this day, is maintained by confidentiality clauses, which is disconcerting to say the least.

My view was re-enforced by Gerard Schipp, the department's accountancy guru, during the “Public Hearing 24/06/2005 - Value for Money from NSW Correctional Centres”, pg 14, when he stated, ***“That brings us back to this issue of apples versus apples and within the apples whether it is a Granny Smith or a Jonathan, and certainly if we all***

***had Jonathans then one would be peeled and one would not, and I am not sure if you would ever get to the point where we directly could compare facilities because, apart from the different inmate mix, there is then different program mixes... There is always going to be a difference between facilities. ”***

For much of the negotiative process, my view was that the government/department's threats of privatisation were a negotiation tool, a bluff. After all, NSW ALP Policy states, ***“Labor opposes the private contract management of prisons”***. During February 2004, the COVB withdrew from negotiations after having great difficulties accepting the department's proposition of a flat-rate for overtime. Being one of the last, if not the last, workforces were middle managers were still paid for overtime in Australia, the COVB of that time, should have taken a more enlightened and sensible approach.

By this time, my view had changed, which now coincided with my colleagues on the State POVB executive. The Labor government was prepared to take the big leap and privatise the new centres. The COVB's withdrawal from negotiations gave the government a plausible excuse to break its own policy. With consideration, how can a correctional facility operate without middle management?

In an eleventh hour agreement, the POVB agreed on a new award for the new centres. The POVB executive had convened an extraordinary POVB delegates meeting and were able to garner support from the delegates for the proposal. The vote was:

- 36 in favor
- 1 abstention
- 1 against

The ballot was conducted by secret ballot. The result was an overwhelming result in favour of the “Consent Award” or “island agreement”, as it has colloquially become known as in some areas of the department. The wider POVB membership was not entitled to a vote, as

the centres were "green fields" sites. The "Consent Award" came into existence for the three new centres at Kempsey, Dillywnia and Wellington. Within the system the agreement was contentious and controversial, with the significant differences from the traditional system, being:

- the flat-rate for overtime for frontline officers
- voluntary "sell offs" of some annual leave and rostered days off
- middle managers being annualised with no overtime
- middle managers becoming members of the POVB
- COVB being unrepresented in those centres
- POVB representation on the Local Board of Management
- having a strike protocol

With the advent of the POVB being able to participate on the Local Board of Management and having a viable strike protocol, my belief was that this was the beginning of a true participative management style within the system. A management style that would create an industrially harmonious, motivated and productive workforce. Unions from many varying workforces around the western world have aspired for the evolution to the participatory form of management. It is widely recognised that this style of management model generally brings with it industrial harmony, increased productivity and most importantly, a positive working environment. That it was at least partially attained at the "Consent Award" centres, has been largely unheralded. Evidently John Hatzistergos received acclaim within Cabinet for his so-called radical reform and negotiation skills. Metaphorically, the government/department held a gun to the POVB's head. The gun was called privatisation.

My view then was that if the POVB had followed the COVB leadership, the three new centres would have been privatised. Time has only strengthened that view. By now whole

sections of the department would have been privatised. The POVB executive made the right decision and minimised the impact on its members. As recently as late last year both John Hatzistergos and Ron Woodham made public references with regards to the State POVB executive of 2003-2005 as being "**co-operative.**" It is interesting to note that of the three remaining State POVB executive from that time still working in the system, two are currently working at Cessnock CC, Tony Howen - the current Cessnock POVB Chairperson - and myself.

### **Privatisation Campaign becomes public**

On 18<sup>th</sup> August 2008, an article written by Simon Benson appeared in the "Daily Telegraph" sensationally alleging overtime rorts by NSW correctional officers. The source of the information was not identified. For people working in the NSW correctional environment, this represented the commencement of the government/department's plans to publically denigrate and demonise correctional officers, to manipulate them to accept drastic workplace reform. To many, the way it was initiated was cowardly, unproductive and risky.

In some quarters it was anticipated that correctional officers would "walk- off" the job as a result of this infamy. To the credit of the POVB and its members, no such action took place. The issue of privatisation would not necessarily be won by industrial action, but rather by political action. This inquiry is only one stage in that political process. An important stage to be sure, but one of the several political processes available to the many opponents of prison privatisation and its related evils.

It was also announced that the corrective services overtime budget was \$43 million, which had allegedly blown-out by some \$23 million. Whilst \$43 million is a large sum of money, in the context of the entire DCS budget, it is not! The DCS budget is approximately \$900



million. This means that the overtime budget component is approximately 4.7% of the overall budget (four point seven percent). The Minister and the Commissioner of the time both stated that there would always be a need for a "reasonable amount" of overtime, which is approximately 2% of the overall budget. So, the NSW Labor government is prepared to risk a back-bench revolt, a grass roots revolt (due to breaking their policy), privatise two fully functional correctional centres, sending profits overseas to foreign shareholders, uprooting many families, demoralise a one motivated workforce, for an alleged meagre saving of just over 2½% of the DCS budget. Any right-minded person would see this as insanity. Economic rationalism gone crazy!

#### **Reasons for Privatising Cessnock Correctional Centre**

On the 11<sup>th</sup> November 2008, DCS Commissioner Ron Woodham sent an e-mailed letter to all Corrective Service staff informing that Cessnock and Parklea Correctional Centres would be privatised. Staff were advised that the ***"Budget Committee of Cabinet had made the decision, which was in the State Mini-Budget."***

On 13<sup>th</sup> November 2008, Deputy Commissioner McLean addressed staff at Cessnock. He stated at the outset that he was not prepared to give any details or reasons why Cessnock had been chosen for privatisation. He would not answer any questions in relation to this very important issue. However, later in his "information" session he stated that ***"it was a government decision, which is irreversible, and that they've got Junee, and they want one city and one country, up north."*** He further stated, ***"that other centres might be privatised at a later date."***

My understanding is that, Cessnock City Council have written letters to the NSW Premier, Attorney General John Hatzistergos and Ron Woodham requesting reasons for the

privatisation, as they have concerns that the decision may impact detrimentally on their community. To date, the Council have not been provided with any reason.

In the absence of any valid reasons the rumour mill has gone into overdrive as to what the reasons may actually be, including:

- Cessnock CC is extremely desirable to the private corporations, due to the industries and low level of incidents, which should maximise their profits
- The Government/Department has no intention to privatise, but is bluffing to enable displacement/redundancy of staff, then do an eleventh hour deal with the POVB/PSA and hand pick the staff to return at drastically lower staffing levels
- That GEO – the private operators for Junee Correctional Centre, other centres in other states and detention centres Australia wide – have placed themselves in an advantageous position through political donations – *as per SMH pg 8, 09.12.08*
- That the NSW Labor Government is blindly adhering to its doctrine of economical rationalism and neo-liberalism – economic philosophies that are being widely touted as the significant reasons for the current global economic crisis
- To manipulate the POVB/PSA into acceptance of all the “way forward” proposals, including casualisation, decreased overtime payments, centralised rostering, overcrowding of centres and lower staffing levels
- That John Hatzistergos wanted to enhance his career by bringing a widely perceived strong and powerful public sector union “into line”
- That the Government/Department plans wide scale roll-out of privatisation, with Cessnock and Parklea merely test cases

There are other speculated reasons circulating and it is obvious, in the absence of transparency, that the staff are angry, disillusioned and uncertain about their futures. John Hatzistergos gave the closest statement of an official reason, when he stated at the most

recent Budget Estimates Committee, that ***“What there is is an excessive amount of overtime being earned by a small number of officers. That is the problem.”*** The question that Cessnock staff are asking, are they being privatised because of the earned overtime of a small amount of officers, who may not necessarily work at Cessnock?

Regardless of the outcome of this parliamentary inquiry, any fair-minded person must surely say that the staff of Cessnock CC and the community of Cessnock region should be provided with a valid reason as to why their centre was chosen. This decision will cause a tremendous upheaval to all staff, their families and the broader community. Hopefully, your parliamentary inquiry will unearth the actual reasons.

#### **Overtime Rorting, Overtime Culture and Sick Leave Benchmarking**

Following on from his statement to the Budget Estimates Committee, John Hatzistergos spoke about the issue of overtime “rorting”, on Radio Program 2GB’s Ray Hadley program. Whilst Mr Hatzistergos would not categorically state that “rorting” was occurring, he inferred that there was, due to a small proportion of correctional officers doing a high percentage of the overtime. He provided figures, which were:

- ***960 of the officers earn \$21million in overtime***
- ***3140 of the officers earn \$18million in overtime***

What Mr Hatzistergos neglected to add was that there are some centres and court cells that have been chronically understaffed for varying reasons. Ofcourse, these areas are going to earn a disproportionately high amount of overtime than areas that are more adequately staffed.

Within these areas, there are some officers prepared to work as much overtime as is offered by management, whereas there are some officers that are only prepared to work a

small amount of overtime, or even none at all. It is obvious that the officers prepared to work a higher proportion of the overtime, are indeed helping to keep the system running smoothly. Instead of being labelled "overtime rorters", they should be commended for their extended efforts. That Mr Hatzistergos attempted to parlay these figures for the purposes of workplace reform and privatisation is reprehensible, abominable and tentative.

Further from the above-mentioned figures, the average overtime per officer per pay period, that is, two weeks, is approximately one overtime shift. Compared to most other workforces and industries, this is not an excessive amount.

Correctional Officers for many years have been accused of having an "overtime culture." To deny this would be futile. In some centres this certainly exists, particularly in the remand/reception/transit centres, where there is a high turnover of staff, with a confronting and challenging work environment, leading to often-chronic staff shortages.

The question needs to be asked, "Who created the culture?" From my experience the Department has mainly, due to the savings generated and the flexibility created by being able to adjust staffing levels at short notice. A good example of this was when Parramatta CC had to be re-opened in November 1998, due to a rapid rise in the remand population. The then Regional Commander John Klok attended a staff meeting at the Metropolitan Remand Reception Centre advising staff that Expressions of Interest were being sought to re-open Parramatta, with the incentive being that it would be run on overtime.

Parramatta CC had closed in 1997, "never to be re-opened". One section of the gaol was built in 1842, with the remainder also being built in the 19<sup>th</sup> century. It was badly in need of renovation, being strewn with flaking paint and pigeon excreta, with faulty electricals and leaking plumbing. It was more like a run down museum than a correctional centre, with

massive OH&S issues. One of the main reasons that staff volunteered to work there was the overtime. That was the inducement offered, but even then, very few staff expressed an interest to go there. It was re-opened, with continual staff shortages.

Within a year of its re-opening, it was obvious that the staff were at breaking point. The department insisted that they were not prepared to transfer in more staff from other gaols, as the centre was soon to close again. The local POVB became so frustrated at this that they put forward a resolution, that due to the ongoing staff shortages, probationary officers direct from the Academy were required as a matter of urgency. Basically, that centre has been heavily supplemented by overtime, with a consequent "overtime culture" developing there. It can be reasonably contended that the department is largely responsible for the development of this culture. Ten years later Parramatta CC remains open, partly renovated with inmate labour and for a significant amount of that time, the centre has run on considerable levels of overtime, with the goodwill of the staff, and to a lesser degree, of most of the inmates.

Ron Woodham recently made a public statement saying, "***You drive past Parramatta jail and have a look at some officers' cars parked outside: four-wheel-drives and top of the line stuff.***" He did this to infer that the officers were "overtime rorters." It is understandable that the staff at Parramatta and indeed the entire system was in absolute disbelief at the misinformation that he was attempting to disseminate. Instead of being congratulated for their fortitude and professional inmate management, the staff were being publicly vilified by the person that should have been praising them. This is just one instance where the department caused and fostered an "overtime culture." For the government/department to use the "overtime culture" as one of the main reasons for privatisation of prisons, is absolutely repugnant, irreconcilable and disengenuous.

John Hatzistergos has publicly stated that the sick leave for Correctional Officers has been benchmarked with that of the NSW Police Service. He states that:

- ***13 days sick leave per year is the average for NSW Correctional Officers***
- ***8 days sick leave per year is the average for the NSW Police Service***

He uses these figures to argue for a reduction in the sick leave of Corrective Services officers and advocates that the “**excessive**” overtime is the main reason for the differences between the two figures. Mr Hatzistergos has not made reference to some very significant facts on this issue. The obvious anomaly is that he is comparing two distinct workforces. Also the age demographic of the two occupations is vastly different. The Police Service attracts mainly fit young adults. Coupled with a high staff attrition rate, this corresponds to a relatively young staff profile. Corrective Services recruits staff right across the age spectrum, with a preference for mature people, with extensive life skills, who tend to remain in the job for a longer period than the Police Service, often to retirement age. With an older workforce, comes a higher sick leave level. Simply put, as people get older there is a tendency to have greater health issues than do those that are younger.

The question needs to be asked, “Why didn’t Mr Hatzistergos benchmark the sick leave of NSW Correctional Officers with Correctional Officers from other states?” Probably because NSW comes in favorably with other states. It is illogical to benchmark the NSW Police Service with NSW Corrective Services with regards to sick leave.

The figures for overtime and sick leave that Mr Hatzistergos has publicly provided do lead to a very interesting question. If the average officer works 26 overtime shifts per year and has an average of 13 sick days per year, what is the reason for the other 13 overtime shifts per year? The explanation is simple, staff shortages are the main reason. The department has historically understaffed the system, leading to increased overtime. This

has created an "overtime culture", which in some instances has caused "burn out" of staff. Now the department, with the support of the government, is attempting to justify massive reform and privatisation of the system because of the problem that they created. Meanwhile the NSW Labor government is also opposing its Labor Rank and File policy on prison privatisations. Surely a common sense approach to this would be to reform Senior Management, who have created the problem, then the front line Correctional Staff may be able to complete their duties in a more efficient and effective manner.

### **Rising Gaol Populations, Overcrowding and Pressure on Government to cut costs**

Since "Truth in Sentencing" legislature was introduced in 1989 there has been a steady increase in the NSW gaol population. In the last seven years inmate numbers have risen by 32%, with the gaol population passing 10,000 inmates in 2008. Currently inmate numbers have passed 10,100, up from 7,630 in February 2002. Recently the Sun-Herald and Sydney Morning Herald ran a number of articles about the NSW prison system. One of the problems that these articles highlighted was the chronic overcrowding that is occurring.

John Hatzistergos maintained that there is no overcrowding, as there are 500 empty beds. Premier Nathan Rees followed this up by re-iterating that there 500 empty beds and if needs be, his government will build more gaols to house more inmates. What both these politicians failed to mention was that the 500 empty beds where in gaols that had been closed, as a result of cramming inmates into the remainder of the system.

There is obvious overcrowding in the system. A glaring example of this is that Kempsey and Wellington CCs were built to house 500 inmates each. As of midnight 7<sup>th</sup> February 2009, Wellington had a state of 640 and Kempsey had a state of 590. Essentially, inmates are being crammed in with minimal increases in services and security, which has major repercussions for correctional staff and inmates alike. Many other centres around the state have accepted additional inmates over the previously agreed to states, for minimal extra staff, if any.

The "law and order" campaign that accelerated incarceration rates from the early 1990's, continues relentlessly forward. Both Labor and Liberal/National parties have been involved in an auction of putting more and more offenders in gaol, under the belief that the voting public want it and that the policy is an effective means in which to slow down the crime rate. Many are of the opinion that the main reason the government is pushing workplace reform and privatisation, is that the government anticipates that the prison population will continue to grow. In a nutshell, the government aims to smash the union, pay prison officers less, further overcrowd existing centres and build more and more gaols.

There are many critics of this philosophy. Surprisingly, the Liberal/National Party's spokesperson for Corrective Services, Greg Smith, has recently suggested that this policy needs to be re-visited and that the auction of incarcerating more and more offenders may not be the way to go. He was a police prosecutor prior to his parliamentary career and had a reputation of being "hard-nosed" when it came to prosecutions. That he is now openly expressing doubt about the continual rise in the prison population is revealing.

Overcrowding invariably leads to a more dangerous environment for staff and particularly, inmates. Rehabilitation is diminished and ultimately the wider community will suffer negatively.



## Conclusion

The link of the continual increase in correctional centre numbers to the privatisation issue was intentional. It is persistently obvious that the current NSW Labor government intends to go the way of many American jurisdictions. That way, be it blatantly put, is to incarcerate more and more offenders, literally by throwing away the key and do it as cheaply as possible. The question needs to be asked; do we want this type of prison system in Australia? For any right-minded person the answer should be an emphatic, **NO!**