

Submission  
No 112

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

**Organisation:** Council of Social Service of NSW (NCOSS)  
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**Date received:** 27/02/2009

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## Council of Social Service of New South Wales

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The Director  
General Purpose Standing Committee No. 3  
Parliament House  
Macquarie St  
Sydney NSW 2000

26<sup>th</sup> February 2009

### **Re: Legislative Council Inquiry into the privatisation of prisons and prison-related services.**

Thank-you for providing NCOSS with the opportunity to provide a submission to the Inquiry into the privatisation of prisons and prison-related services.

This submission focuses on issues related to privatisation and the provision of health services within prisons, and is relevant to the following terms of reference:

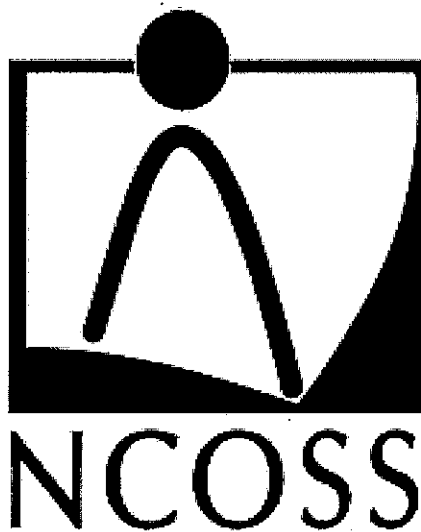
- 1.f. The impact of privatisation on rehabilitation programmes, mental health support services and recidivism rates.
2. The comparative economic costs of operating public and private facilities and the impact of privatisation on publicly managed prisons
3. Accountability mechanisms available in private prisons
4. Future plans to privatise prisons or prison services in NSW, including the Court Escort Security Unit
6. The experience of privatisation of prisons and prison services in other Australian and overseas jurisdictions
7. Any other relevant matter.

Should you require any clarification or further information on this submission, please contact Kristie Brown, Senior Policy Officer at NCOSS on 02 9211 2599 ext 130 or [Kristie@ncoss.org.au](mailto:Kristie@ncoss.org.au)

Sincerely,

Alison Peters  
Director

**Submission to the Legislative Council  
General Purpose Standing Committee No. 3  
Inquiry into the Privatisation of Prisons  
and Prison-Related Services**



**February 2009**

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## About NCOSS

The Council of Social Service of NSW (NCOSS) is an independent non-government organisation (NGO) and is the peak body for the non-government human services sector in NSW.

NCOSS has as its vision a society where there is social and economic equity, based on cooperation, participation, sustainability and respect. NCOSS works with its members on behalf of disadvantaged people and communities towards achieving social justice in New South Wales.

It was established in 1935 and is part of a national network of Councils of Social Service, which operate in each State and Territory and at Commonwealth level.

NCOSS membership is composed of community organisations and interested individuals.

Affiliate members include local government councils, business organisations and Government agencies. Through current membership forums, NCOSS represents more than 7,000 community organisations and over 100,000 consumers and individuals.

Member organisations are diverse; including unfunded self-help groups, children's services, youth services, emergency relief agencies, chronic illness and community care organisations, family support agencies, housing and homeless services, mental health, alcohol and other drug organisations, local indigenous community organisations, church groups, peak organisations and a range of population-specific consumer advocacy agencies.

## Introduction

Some of the most disadvantaged population groups within NSW are overrepresented within the prison system. Amongst the NSW prison population, one in three women and one in five men have been through the childhood care system; one in two prisoners left school with no qualifications; 64% of women and 45% of men were unemployed in the six months prior to imprisonment; three in five women and two in five men were sexually abused before the age of sixteen<sup>1</sup>; and rates of incarceration for Aboriginal and Torres Strait Islander people in NSW prisons remain shockingly high, at 30% of women and 20% of men in full-time custody.<sup>2</sup>

The social and economic disadvantage typified by the prison population is reflected in the poorer health status of many inmates. Rates of mental illness, drug and alcohol misuse and other health issues are higher amongst inmates than the general community. The 2001 New South Wales Inmate Health Survey<sup>3</sup> found that:

- 95% of women and 78% of men had at least one chronic condition.
- Over three in five women and two in five men tested positive to Hepatitis C antibodies, with prevalence amongst men increasing.
- Four out of every five inmates had used illicit drugs at some point, with approximately three quarters using illicit drugs regularly in the twelve months before prison.
- Over half of women and 2 in 5 men have been diagnosed at some point with a psychiatric problem.
- More than four in five women and just under four in five men were current smokers.

Correlations between poverty, drug and alcohol use, mental illness and incarceration make the health status of prisoners a major public health issue. The provision of health services to prisoners not only serves to improve health outcomes of vulnerable, marginalized or disadvantaged

<sup>1</sup> Butler, T & Milner, L 2003, *The 2001 NSW Inmate Health Survey*, Corrections Health Service, Sydney. Available at: [http://www.justicehealth.nsw.gov.au/publications/Inmate\\_Health\\_Survey\\_2001.pdf](http://www.justicehealth.nsw.gov.au/publications/Inmate_Health_Survey_2001.pdf)

<sup>2</sup> NSW Department of Corrective Services, Corporate research, evaluation and statistics, April 2008, *Facts & Figures*, 8<sup>th</sup> Edition, NSW Department of Corrective Services, Sydney. Available at: [http://www.dcs.nsw.gov.au/information/research\\_and\\_statistics/Facts\\_and\\_Figures/April\\_08.pdf](http://www.dcs.nsw.gov.au/information/research_and_statistics/Facts_and_Figures/April_08.pdf)

<sup>3</sup> Butler, T & Milner, L 2003, *The 2001 NSW Inmate Health Survey*, Corrections Health Service, Sydney. Available at: [http://www.justicehealth.nsw.gov.au/publications/Inmate\\_Health\\_Survey\\_2001.pdf](http://www.justicehealth.nsw.gov.au/publications/Inmate_Health_Survey_2001.pdf)

population groups, but is an essential component of the rehabilitative responsibilities of prisons, and can assist in reducing recidivism rates amongst prisoners<sup>4</sup>.

Within NSW, the majority of health services to prisoners are currently provided by Justice Health, a statewide, specialist corrections health service funded by NSW Health and operating as a statutory health corporation. Junee, the state's only privately run prison is an exception to this, with health services provided by the private prison operators, GEO Group.

NCOSS holds significant concerns that any privatisation of prisons could involve a privatisation of health services provided to inmates within these facilities, as is currently the case at Junee.

Privatisation of prisons invariably raises issues about what functions are included within the contracts and services nominated for privatisation. Health services are an essential component of service delivery within prisons, and NCOSS encourages the Committee to consider what factors should determine who is responsible for the delivery of health services to prisoners. The example of Junee points to the need to not overlook this feature in broader discussion of privatisation of prisons.

NCOSS position is that quality imperatives and positive health outcomes should drive the provision of health services to prisoners, and not financial or profit motives.

In an effort to assist the committee further consider issues relating to privatisation and health services within prisons, this submission outlines six key features NCOSS recommends be considered by the committee as part of a baseline framework for the delivery of health services within any prison, by any provider. In summary, these features are:

1. Independence from the agency or agencies responsible for the operation of correctional centres, particularly security services.
2. Form part of or demonstrate strong links with the broader NSW Health system to ensure continuity of care and appropriate levels of pre and post-release care coordination.
3. Be a specialist healthcare provider, with demonstrated experience in best-practice health service delivery within a corrections environment.
4. Operate transparently, including a comprehensive and independently scrutinized complaints process, and operate data systems that are fully integrated and compliant with those utilized in Justice Health managed health services.
5. At a minimum maintain the current level, type and range of service provision currently provided within the facilities, including acute care capacity.
6. Have a comprehensive range of quality assurance mechanisms, including independent scrutiny and an inmate/consumer engagement framework, to ensure that quality of care remains consistent with or above that currently provided in these centres, and continues to remain comparable to Justice Health operated health services.

***Independence from the agency or agencies responsible for the operation of correctional centres, particularly security services.***

National and international best practice frameworks for the provision of health services to prisoners cite a preference for a clear distinction between agencies responsible for the delivery of health services and those responsible for the operation of prisons.<sup>5</sup>

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<sup>4</sup> Public Health Association of Australia (PHAA), 2007, *Prisoner Health: Minimum National Health Standards for Correctional Services and Juvenile Detention*, PHAA, Deakin (ACT). Available at: <http://www.phaa.net.au/documents/policy/PrisonHealthMinStandards.pdf>

In some Australian States and Territories, health services to prisoners continue to be provided by Justice Departments. However, a recent overview compiled by the Australian Institute of Health and Welfare (AIHW) indicated that where this was the case nearly all were contemplating moving responsibility to Health Departments.

State/Territory	Health/Justice	Name of department	Name of section
NSW	Health	NSW Health	Justice Health
Vic	Justice	Victorian Department of Justice	Justice Health
Qld	Justice (may move to health)	Queensland Corrective Services	Health and Medical Services
WA	Justice (may move to health)	Western Australian Department of Corrective Services	Health Services
SA	Health	South Australian Department of Health	SA Prison Health Service
Tas	Health	Tasmanian Department of Health and Human Services	Correctional Health Service
ACT	Health	ACT Health	Corrections Health Program
NT	Justice (moving to health)	Northern Territory Department of Justice	Corrections Health Northern Territory Correctional Services

Source: Belcher J and Al-Yaman F, 2007, *Prisoner health in Australia: contemporary information collection and a way forward*, Cat. no. PHE 94, Australian Institute of Health and Welfare (AIHW), Canberra, p 18.

Moves to separate the 'Justice' and 'Health' functions of prisons where there is not a current delineation continue to form part of recommendations for prison reform. For instance, in a report into Deaths in Custody, the Western Australian Ombudsman stated:

*The recommendation I have made that is potentially of greatest impact on the system as it is presently organized is that responsibility for the control of the prison health service should not lie with the Ministry – but, rather, should be placed in the hands of a new entity which is quite separate from the Ministry.*<sup>5</sup>

The separation of operational functions of prisons and health services assists in minimizing the potential for conflicts of interest that may arise between health delivery and security, ensuring privacy and confidentiality of health information, and ensuring prisoners are comfortable in seeking and receiving health treatment.

In NSW, health services to people in contact with the criminal justice system, including full-time prison inmates, are predominantly provided by Justice Health, a statutory health corporation that reports to the NSW Minister for Health through NSW Health. This provides for a distinct operational and governance framework for the delivery of prison-based health services to that of the Department of Corrective Services, whose responsibilities include the operation of the correctional system within NSW, reporting to the Minister for Corrective Services.

However, at Junee health services are provided as part of the 'offender development area', reporting to the General Manager of the centre. Under this model the distinction between the provision of health services and the operational aspects of the prison is blurred.

<sup>5</sup> Møller, L, et al. 2007, *Health in prisons. A WHO guide to the essentials in prison health*, World Health Organisation, Copenhagen.

<sup>6</sup> Western Australia Parliamentary Commissioner for Administrative Investigations 2000, *Report on an inquiry into deaths in prisons in Western Australia*, Ombudsman, Western Australia, Perth. Available at <http://www.ombudsman.wa.gov.au/documents/reports/deathsinprisons/1-5.pdf>

NCOSS holds significant concerns that any proposed privatisation of prisons may include within its scope a privatisation of health services within these facilities, and that this will undermine the best practice framework currently in place in NSW (and increasingly across other State, Territory and International jurisdictions) that clearly distinguishes responsibility for the provision of health services and the operation of the prison.

NCOSS contends that this separation must be clearly maintained, regardless of whether a particular prison is operated privately or publicly.

However, NCOSS notes with some alarm concerns raised about the quality of the provision of health services provided through private providers. One of the key findings of the 'Kirby report', an independent investigation into Victoria's private prisons, found that prisoner health services were particularly fragmented, and recommended that all health services should be centrally coordinated<sup>7</sup>.

***Form part of or demonstrate strong links with the broader NSW Health system to ensure continuity of care and appropriate levels of pre and post-release care coordination.***

There is a strong evidence base to suggest that health care delivery to prisoners must be closely coordinated with health care provided in the broader community.<sup>8</sup>

The United Nations *Standard Minimum Rules for the Treatment of Prisoners* sets out that "medical services should be organized in close relationship to the general health administration of the community or nation"<sup>9</sup>. Similarly, the Australian Medical Association statement on the Health Care of Prisoners and Detainees states that "Every correctional facility health care service in Australian states and territories should be a part of the general health system and independent of Departments of Corrective Services or their equivalent."<sup>10</sup>

NCOSS strongly endorses the statement made by the Western Australian Ombudsman that:

*It is undeniable that it is a fundamental human right (reinforced by the stipulations of international conventions) that prisoners are entitled to the same standard of health care as they could expect in the community. Moreover, the health of prisoners becomes of direct and unavoidable concern to the community when they return to society<sup>11</sup>*

Integration between prison-based and community-based health services is essential to ensuring continuity of care post-release. The health needs of many prisoners are such that, once released, ongoing engagement with the health system will be necessary (particularly given levels of chronic illness, mental illness and drug and alcohol addiction). Ensuring continuity of care post-release is also an important factor in preventing recidivism.

<sup>7</sup> Department of Justice 2000, Report of the Independent Investigation into the Management and Operations of Victoria's Private Prisons, Department of Justice, Melbourne. Available at: [http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Prisons/Research+and+Statistics/JUSTICE+Independent+Investigation+into+the+Management+and+Operations+Victorias+Private+Prisons+\(PDF\)](http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Prisons/Research+and+Statistics/JUSTICE+Independent+Investigation+into+the+Management+and+Operations+Victorias+Private+Prisons+(PDF))

<sup>8</sup> Møller, L, et al. 2007, *Health in prisons. A WHO guide to the essentials in prison health*, World Health Organisation, Copenhagen.

<sup>9</sup> United Nations Office of the High Commissioner for Human Rights 1977, *Standard Minimum Rules for the treatment of prisoners*, Office of the United Nations High Commissioner for Human Rights Geneva, Switzerland. Available at: [http://www.unhcr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhcr.ch/html/menu3/b/h_comp34.htm)

<sup>10</sup> Australian Medical Association (AMA) 1998, *AMA Position Statement: Healthcare of Prisoners and Detainees*, AMA, Barton (ACT). Available at: [http://www.ama.com.au/system/files/node/503/healths\\_gd\\_ps\\_health+care+prisoners+%2526+detainees.doc](http://www.ama.com.au/system/files/node/503/healths_gd_ps_health+care+prisoners+%2526+detainees.doc)

<sup>11</sup> Western Australia Parliamentary Commissioner for Administrative Investigations 2000, *Report on an inquiry into deaths in prisons in Western Australia*, Ombudsman, Western Australia, Perth. Available at <http://www.ombudsman.wa.gov.au/documents/reports/deathsinprisons/1-5.pdf>

Close connections between corrections-based and community-based health services may also provide benefits to clinical staff. Holmwood and Rae (2003) have argued that:

*Prisons tend to be very isolated institutions and working within this environment runs the risk of assimilating the unique attitudinal norms of the culture, in a noncritical manner. It is remarkable how desensitised one can become to situations that on first encounter seem at best bizarre, at worse grotesque. Close links with 'outside' community based agencies are essential to anchor the clinician's attitudes and professional practice firmly in the societal and professional mainstream.<sup>12</sup>*

Justice Health, as a statutory health corporation that reports through NSW Health to the Minister for Health, currently provides an appropriate framework to achieve this objective. NCOSS has significant concerns that, should any health services within prisons be privatised this framework will be eroded, potentially being replaced by a range of segmented, prison-specific health services that do not provide a coordinated or integrated framework, ultimately compromising the health of prisoners.

***Be provided by a specialist healthcare provider, with demonstrated experience in best-practice health service delivery within a corrections environment.***

As has already been outlined, people in prisons have a range of complex health needs, often experiencing significantly poorer health status and health outcomes than is evident in the general community. This necessitates the availability of comprehensive healthcare, capable of providing a range of specialist services at various levels of acuity.

National and International obligations require that the provision of healthcare to prisoners reflect standards of care available in the community.<sup>13</sup>

NCOSS believes that the imperative for prison-based health services is, and should be, quality care. We hold significant concerns that the privatisation of health services in prisons would undermine this objective, introducing a financial driver, or profit motive, into healthcare delivery. It can be reasonably anticipated that this may result in a reduction in healthcare services available to prisoners, which would in turn result in significant consequences for the health of prisoners, as well as inflated costs on the public health system.

***Operate transparently, including a comprehensive and independently scrutinized complaints process, and operate data systems that are fully integrated and compliant with those utilized in Justice Health managed health services.***

Over successive years the NSW Ombudsman's report has highlighted a significantly higher number of complaints received from inmates of Junee than those made from comparable jails<sup>14</sup>. It is not clear how many of these complaints relate to health services.

It is essential that all prisons, and all prison based health services, provide a consistent framework for complaints, and be subject to scrutiny from independent agencies, regardless of the type of provider responsible for the service.

This extends to the use of consistent data systems, including but not limited to complaints, to ensure the quality and integrity of data collected on the health needs of prisoners in NSW across all facilities.

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<sup>12</sup> Holmwood, C & Rae, D 2003, 'Prison Health: A different place for GPs', *Australian Family Physician*, vol. 32, no. 10, October. Available at: <http://www.racgp.org.au/afp/200310/20031001holmwood.pdf>

<sup>13</sup> Møller, L, et al. 2007, *Health in prisons. A WHO guide to the essentials in prison health*, World Health Organisation, Copenhagen.

<sup>14</sup> NSW Ombudsman 2008, *Annual Report 2007-2008*, NSW Ombudsman's Office, Sydney. Available at: <http://www.nswombudsman.nsw.gov.au/AnnualReport2008.html?id=457>



Under current arrangements with Junee, data systems for health services are not utilised in a manner compatible with those of Justice Health. This prevents scrutiny of the quality and safety of services provided at Junee compared to those of Justice Health, and similarly impedes a comprehensive data set on the health needs and outcomes of inmates in NSW Prisons. This is unacceptable. Any private provider of prison health services should be contractually obligated to comply with a consistent data framework.

***At a minimum maintain the current level, type and range of service provision currently provided within the facilities, including acute care capacity.***

NCOSS believes that a fundamental principle for any privatisation of health services in an existing prison should be an explicit contractual obligation to ensure that levels, types and the range of health services provided prior to privatisation are maintained. This is consistent with the need for prisoner health services to be driven by quality measures and not financial imperatives.

Should health services within prison/s be privatised, any downgrading to the level, range and type of services currently provided within particular prisons would inevitably result in the public health system being forced to compensate for shortages created. NCOSS holds concerns that, motivated by profit incentives, in taking over health services in prisons private providers may be motivated to provide only a basic or minimum range of health services – cutting back on specialist, acute or any other service that attracts greater costs to provide. Invariably any inmate would then be transferred to a prison falling within the remit of NSW Government health provision (Justice Health). In such cases the use of private providers would represent a false economy – with the public purse continuing to meet the costs of prisoner health care and at the same time funding a private provider for this function.

There is some anecdotal evidence that this has been the case at Junee, but current data collection practices (and indeed the lack of publicly released data) have prevented NCOSS from providing further evidence. We encourage the committee to further investigate this issue.

For these reasons estimates given by private providers for the cost of providing health services should be treated with extreme caution. For instance, the figure provided by GEO Group Australia Pty Ltd (the operator of Junee Prison) to the public accounts committee<sup>15</sup> suggesting they were able to provide health services at Junee on a per inmate per day basis at half the costs of Long Bay Hospital (a Justice Health facility) should be considered carefully – particularly given that prisoners at Junee do not usually have complex health needs, where those at Long Bay Hospital invariably do.

***Have a comprehensive range of quality assurance mechanisms, including independent scrutiny and an inmate/consumer engagement framework, to ensure that quality of care remains consistent with or above that currently provided in these centres, and continues to remain comparable to Justice Health operated health services.***

Commercial sensitivities about the release of information from private providers contracted by Government can result in a range of data, financial information and management and operational decisions being labeled commercial-in-confidence, and consequently not publicly available. In the case of health services operated by public institutions, this is information that would be either publicly available, or subject to mechanisms of public scrutiny.

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<sup>15</sup> New South Wales. Parliament Legislative Assembly (Public Accounts Committee) 2005, Report on value for money from NSW correctional centres, Report no. 156 / Public Accounts Committee, Parliamentary paper no. 13/53. Available at: <http://www.parliament.nsw.gov.au/prod/PARLMENT/committee.nsf/0/80F365E089726B75CA25708300191671>.

The lack of publicly available information poses a significant impediment to transparency, effectively preventing any public scrutiny of the health status of prisoners being treated by private providers in prisons, or the health outcomes achieved by these providers. It simultaneously prevents any comparison between public providers and private providers of prison health services, preventing any attempt to assess differences in quality or financial outcomes.

In order to ensure a standard for quality of care that is, at a minimum, consistent with standards achieved in publicly managed prison health facilities, any private provider of health services must be contractually obliged to meet a range of quality indicators, which should be publicly reported annually to allow for public scrutiny.

In order to ensure the health services within each facility meet the needs of the inmates within that facility, one of these measures should relate to the establishment of an inmate/consumer consultative committee. This mechanism should also apply to Justice Health managed facilities (and is currently achieved with varying levels of success through mechanisms such as the Inmate Development Committees).

### **Conclusion and Recommendations**

NCOSS considers that the provision of health services within a corrections environment must reflect the following features, regardless of the type of agency responsible for the provision of services, or the type of agency responsible for the operation of the correctional centre in which the health services are provided. These features include:

1. Independence from the agency or agencies responsible for the operation of the correctional centre, particularly security services. This should specifically include separate governance, administration, staffing and reporting frameworks.
2. Form part of or demonstrate strong links with the broader NSW Health system to ensure continuity of care and appropriate levels of pre and post-release care coordination.
3. Be provided by a specialist healthcare provider, with demonstrated experience in best-practice health service delivery within a corrections environment.
4. Operate transparently, including a comprehensive and independently scrutinized complaints process and the public reporting of data (outputs such as services provided and outcomes such as health outcomes rates compared to the general community, as well as participation in data collection processes such as the inmate prisons survey)
5. Have a comprehensive range of quality assurance mechanisms, including independent scrutiny and an inmate/consumer engagement framework

Additionally, where responsibility for the provision of health services within correctional centres is transferred from Justice Health to any other provider, in addition to the above criteria, any other provider should also be contractually obliged to ensure the following features:

6. That quality of care remains consistent with or above that provided in the centres, and continues to remain comparable to Justice Health operated health services.
7. That the provider utilise data systems that are fully integrated and compliant with those utilised in Justice Health managed health services.
8. That, at a minimum, the current level, type and range of health services provided within the facilities is maintained, including specialist services and acute care capacity.

NCOSS requests that in developing the report of their inquiry the committee specifically consider the issue of privatisation of prisons and health services.