

Submission
No 59

INQUIRY INTO THE PRIVATISATION OF PRISONS AND PRISON-RELATED SERVICES

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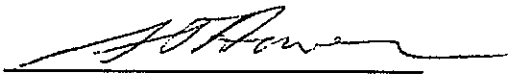
Submitted by Cessnock Sub-Branch of the POVB of the PSA. Cessnock is one of the identified prisons to be privatised by the NSW Government. The following submission will show that Cessnock has operated effectively and efficiently for the past 20 years and that there is no justification for its privatisation.

UPPER HOUSE PARLIAMENTARY INQUIRY

INTO PRIVATISATION OF PRISONS

Submission from

Tony Howen



Peter Williams



**Delegates for
Prison Officers Vocational Branch
Cessnock**

Closing: Friday 27 February 2009

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1. BACKGROUND

Cessnock Correctional Centre opened in 1973 as a minimum security centre. It is the major gaol for the Newcastle Hunter Region.

- Cessnock is a variable classification gaol with up to 110 Maximum Security Remands that includes 40 inmates on various levels of protection and up to 337 Minimum Security inmates. These comprise the three classifications of Minimum Security, C1, C2 and C3.
- C1 inmates are confined within the secured fence area and must be escorted by Prison Officers any time they are moved outside the secured area.
- C2 inmates may work outside the secured area while being supervised by Prison Officers.
- C3 inmates may work outside with intermittent supervision. They may also attend external educational courses and qualify for day and weekend leave.

Cessnock holds inmates serving various sentences ranging from short term to long term inmates nearing the end of their sentences.

The centre is also responsible for staffing Tomago Periodic Detention Centre which houses up to 120 detainees over weekends.

- Currently Cessnock employs 136 custodial officers and 31 overseers responsible for supervising inmates in workshops and various other work locations. Also there are civilian staff working in the areas of administration, inmate health care, welfare, education, psychology, alcohol and other drug counseling, Probation and Parole and various rehabilitation services.

As per the Operational Agreement the rank structure comprises:

First Class Correctional Officers
Senior CO
Assistant Superintendents
Senior Assistant Superintendents
Manager of Security
General Manager

Industries Rank Structure comprises:

Overseers
Senior Overseers
Assistant Superintendent Industries
Manager of Industries

- Cessnock was originally built to accommodate 408 inmates. The addition of dormitory accommodation and the institution of 2 out cells has lifted the current maximum state in the four accommodation wings to 447. There is also a segregation section comprising of four cells which sometimes house up to two inmates to a cell. Cessnock currently has a Crisis Unit which was closed by the Department in 2003 and is still used on occasion as safe cell accommodation when existing safe cells in 2 Wing and 11 Wing (Maximum Security Area) are occupied.
- Prison Officer duties range from the releasing of inmates from cells in the morning (let-go), supervision of inmates in the wings, clinic, activities, visits, the grounds, movements through gate areas, external escorts, external work areas and any other area where inmates attendance is required.

Duties include centre security checks of all locations including perimeter fencing (internal and external) and mustering (head counts) of inmates. Officers also constantly interact with inmates as we are the first point contact for all their daily needs and inquiries. This includes case management of inmates.

Prison Officers are responsible for resecuring inmates in their cells at the end of the inmates day (lock-in) and for security of the centre after the inmates are locked in. This includes the securing of new inmates to the centre after the general population has been locked away.

All Prison Officers are mindful of their duty of care in to inmates and other staff members during the performance of their duties.

- Prison Officers at Cessnock operate on four shift rotational rostering system. The union negotiated with the DCS to facilitate a preferred rostering system which delivers about 70% of peoples' desired shifts. In addition shift swaps are allowed as per the Operational Agreement. This system allows for greater hours out of cells (13.5 hours out of cells). This provides the opportunity for inmates to attend work in the morning to early afternoon and educational programs in the afternoon/evening.
- Inmates have available to them a range of courses including those dealing with alcohol and drug addiction problems, behavioural issues, alternatives to re-offending, parenting and job skills, literacy and numeracy, work skills, life skills and interpersonal skills and challenging their criminal behaviour patterns (regressing), computer skills, art, music and various ethnic studies, Nangy Kangur (a building and construction course for indigenous inmates run by EVITI, a KOORI mentor course and various KOORI health courses).
- Industries at Cessnock Comprise of:
 - Gencor – Demountables – The repair and refurbishment of demountable buildings primarily from the Education Department.
 - Cabinet/Furniture Shop – Manufactures furniture for internal and external contracts.

- Cormet – Metal Shop – Has manufactured all security fencing for all gaols since Mid North Coast Correctional Centre.
- Kitchen/Officers Mess – Provides meals for the Northern Regional Centres. The officers mess provides hands on experience in a kitchen commercial environment and also from time to time has offered TAFE courses.
- Concerning the current staff at Cessnock, we would describe them as probably the most experienced in the state. Custodial Officers alone have an average length of service of in excess of 15 years. They have a collective history of responding to every crisis since the Yabsley Property Policy Disturbance (which resulted in the prisoners being confined to their cells in a 'lockdown' which lasted 3 months) and including 2 inmate murders, the effects of the Newcastle earthquake, bush fire smoke so thick all prisoners with respiratory problems were evacuated, numerous prisoner medical emergencies, fights, fires, assaults on staff and escape attempts. In all these situations staff have generally excelled themselves by their display of professionalism.
- The value of their experience is also manifested in the thousands of daily interactions between staff and inmates. Any contact between staff and inmates has the ability to lead to confrontation and, thence, to physical aggression. Experienced staff know instinctively which inmates have to be admonished for trying to play the system, which need to be helped with a genuine problem and (with the high incidence of mental illness) which inmates need to be humoured until the clinic can be contacted to see whether they are stable on their medication. Experience is the most valuable attribute in prison staff, worth its weight in gold.
- Another outstanding attribute of the existing Cessnock staff is their longstanding history of always responding quickly to any alert that a staff member or inmate is in imminent danger. As the Department has failed to give us any type of emergency response unit, and attempts to formulate any type of organised response have always collapsed under their own inherent difficulties, the type of response has always been dependent on the common sense of the staff. This consists of some staff rushing immediately to the scene, others securing areas and then attending, and other areas, such as the Monitor Room or Gate, which cannot attend, maintaining the lines of communication.
- As a union, the local Prison Officers Vocational Branch (POVB) has negotiated in a hard-nosed but fair manner to ensure our members safety. We have regarded our Operational Agreement as our word and bond and have kept it up to date and functional, using the democratic process of secret ballots to ensure our members continued ownership of this document. We have often shown flexibility, as is documented in our union archives, in accordance with the spirit of the Operational Agreement. Our sub-branch has shown moderation at the state level, on a number of occasions resisting calls for wildcat strike action emanating from other sub-branches.
- Our relationship with head office has always been rather testy. To use a common culture comparison, our workplace is not unlike the 4077th from the television series 'MASH'. Our members are not liked by, nor do they like head office. They do not lightly hand out respect. Most are individualistic, some may even be eccentric. But

2. BUDGETING AND OVERTIME ISSUES

2(A) The 'Way Forward' model unsuitable for Cessnock

- As an alleged, innovative reform, the 'Way Forward' contains very little that is new or could be considered innovation.
- It is stated that we will be doing case management of inmates. We have been doing case management of inmates since 1994.
- It is stated that inmates will have a structured day. Again Management has been delivering some form of structured day to inmates since the Operational Agreement came into force in two stages in 1993-4.
- It is proposed that rolling 'let-go's' and 'lock-ins' of inmates (where all available staff will move from wing to wing on a sequential basis) will be instituted to enhance staff safety during these alleged critical times.
- This last proposal contains two basic flaws. Firstly, the critical safety issue this presumably will address is inmate assaults on staff, or possibly inmate assaults on other inmates. In both cases very few incidents at Cessnock have occurred at these supposedly critical times. The majority of problems have occurred during the intervening times when inmates are out of cells. The second flaw lies in the Department's apparent conviction that we need a major reduction in our custodial staffing level in order to provide 'additional' staff at these allegedly critical times.
- Cessnock POVB Delegates have previously raised with Management the proposal that, if the Department genuinely believes in a need to strengthen staff numbers at these times, then existing gaol posts can be redirected to do so. * At lock-in time, for instance, this would include Executive Staff, Activities Staff and D Watch Rovers being directed to three minimum security wings. (The Maximum Security Wing has 8 of its own staff plus the C Watch Night Senior in attendance for its lock-in.)
- Individual Area Managers have from time to time attempted to utilise staff in this fashion, with support from POVB Delegates, but little apparent support from higher Management. Perhaps this is because the practice was undermining the central column supporting the 'Way Forward' proposal.
- The Cessnock POVB Executive did once rather peeve the Cessnock Governor by suggesting this as a standard practice. And accused the Governor of with-holding a safe system of work to use later as an industrial bargaining chip upon his refusal.
- Rolling let-go's and lock-ins at Cessnock will also take longer than their current, simultaneous equivalents, due to the size and layout of the centre. This could reduce the time out of cells for inmates.

- The Department expresses concern at having only 3 people in a wing during these 'critical' times, but seems unfazed by having only 2 people deal with up to 115 inmates in the intervening times.
- The Department now boasts much lower assault rates on Prison Officers, which would seem to negate the need to alter the status quo.
- We do have concerns about any reduction in hours out of cells for Minimum Security inmates. Management has attempted in the past to reduce inmate out of cells hours on the weekends, which would have penalized the workers among them.

2(B) The Operational Agreement

- The Operational Agreement is an all parties document first negotiated in 1993 that provides the framework for the operation of Cessnock Correctional Centre. The major stakeholders were the Department and the Public Service Association of NSW. The POVB, Commissioned Officers Vocational Branch, Corrective Services Industries and Programmes were represented and affected by this document.
- The POVB had the most members affected and bore the brunt of some very difficult negotiations. The introduction of Area and Case Management was a major change in the running of the gaol and the quantum leap represented by the change in a Prison Officer's role was hard to adapt to for our members. * Cessnock was also downgraded from Medium Security to Minimum Security with the loss of armed towers, the third officer in each wing and a total of 11 of our work colleagues displaced from the centre.
- In 1998 Maitland Gaol closed and our 4 Wing was converted to Maximum Security, and so a major re-negotiation of the Operational Agreement became necessary.
- The document contains sections dealing with what ranks and numbers thereof comprise the staff, how inmates are managed, how resources are managed, staff issues, how the agreement is monitored and policed and the means for settling grievances. Cessnock's Operational Agreement is probably unique in its length and complexity and in that it has been kept current by the POVB sub-branch. Recent changes have been done by the addition of annexures. Due to a sub-branch motion dating from 1993, all changes are made subject to acceptance via a secret ballot of our members.
- We believe the Operational Agreement contains the basis for our safe systems of work, consistent with Division 2, Section 13 of the Operational Health and Safety Act 2000 which states "An employer must consult, in accordance with this Division, with the employees of the employer to enable the employees to contribute to the making of decisions affecting their health, safety and welfare at work."
- As the major threat to our safety comes from the inmates we manage, and the Operational Agreement contains agreed staffing and safe manning levels, and subsequent strategies to implement once maintaining those manning levels via overtime usage is no longer an option, therefore the Operational Agreement voted for

- The Operational Agreement lists, by way of annexure, the number of gaol "posts" or work positions, and the number of days per week each post is manned. The required number of staff to ensure filling of all positions is worked out using a 209 formula.
- As the gaol operates 365 days per year, as do most custodial posts, each 7 day per week post requires more than one staff member to fill it. The 209 formula predicts that each staff member will work an average of 209 days per year. Thus each 7 day post requires 1.746 staff members to fill it. 5 day positions require 1.196 staff and so forth. When all the posts are multiplied by their relevant factors and added together that gives you the total custodial numbers or establishment for the centre.
- The problem with the 209 formula is that it is out of date. With the many types of leave which have come into being since it was formulated (secondments, long service, maternity, military, study etc) the average number of days per year staff spend at work is about 190, which would necessitate closer to two bodies per 7 day post.
- This structural deficiency is the source of much of the overtime the Department is forever complaining about. But with their typical dishonesty they blame staff taking sick leave. As the 209 formula predicts 10 days sick per officer and only 15 days per year are granted by the Department, it can be seen that sick leave over that predicted by the 209 formula causes only a fraction of the shortfall.
- The Operational Agreement contains the negotiated hours of overtime for the centre necessitated by the 209 formula, plus reduced services (service posts) and eventually protocols for locking away inmates when all other avenues have been exhausted.
- The Operational Agreement has greatly reduced the industrial issues arising from Managers wanting to play God or Hitler or both for the day, by providing an operators manual for the centre.
- In the early days of its operation the POVB reported many breaches of the Operational Agreement by Management but the incidence of this has reduced over the years. This has reduced the need for industrial action of any kind. The Operational Agreement has been a great benefit to our members, providing them surety in their workplace. To replace them with Management Plans, not fairly negotiated by all stakeholders, is to do a grave injustice to our members.

2(C) Actual Hours Needed versus Hours Budgeted

- Section 4.2 of the Operational Agreement sets up the basis for AI overtime by deeming long term absences of 3 months or more 'supernumery'. This includes sick leave, workers compensation and leave without pay.
- Section 4.3 allows the salaries which would have been paid to the resulting 'vacancies' to be converted to overtime hours to help staff the centre. Simple vacancies are treated the same way. The rate of conversion is 2.86 hours of overtime per substantive vacancy.

- Section 4.4 of the Operational Agreement fixes the fortnightly overtime allocation for Cessnock (including Tomago Periodic Detention) at 600 hours.
- Section 4.4.1. refers to overtime being used to "staff unmanned posts". This fixed overtime allocation is primarily an acknowledgment of the deficiencies of the 209 staffing formula.
- Section 4.5 states that the overtime is "to ensure a safe, secure working environment for staff and the effective operation of the centre".
- Section 4.5.1 again refers to staffing vacancies that occur "within the centre".

We point these sections out to show why long term hospital escorts, bail video link and industries overtime fall outside the letter and spirit of what was agreed to in the Operational Agreement.

To correctly calculate the overtime budget for Cessnock it is necessary to take into account the actual pay rates of the First Class and Senior Correctional Officers who work here. The vast majority are at the top end of the incremental scale, as would be expected at such an experienced centre.

Since the annualisation of their salaries, Executive Officers no longer have access to overtime, except in certain circumstances, such as industrial action by the POVB Cessnock overtime budgets for the 600 hours agreed to have been consistently underfunded. For example in the 2006/7 budget the figure of \$726,000 is quoted. If our lowest paid First Class Officer worked all those hours the actual cost would have been \$773,000. This scenario does not take into account overtime worked on Sundays and Public Holidays, when higher rates apply. The reality is that Cessnock has not used all those hours allocated at 600 per fortnight and in fact has been under budget for overtime for a number of years in terms of actual usage.

In the accompanying 2006/7 budget paper the overtime total was given as \$1,603,000. The following were included in this figure:

- Hospital escorts- \$125,435.17
- Corrective Services Industries- \$152,786.58
- Audio Visual Link- \$88,943.83
- Workers Compensation- \$131,415.60
- All overtime at the lowest rate possible- \$347,533.30.

The accompanying 2007/8 budget papers provide an overtime total of \$1,161,612. Again the following have been included with no separation from the agreed 600 hours.

- Hospital escorts- \$89,546.49
- Corrective Services Industries - \$166,391
- Audio Visual Link- \$111,951.90
- Workers Compensation- \$34,996.34
- All Salaries- \$70,570

Subtracting these figures from the previously given total gives a usage of agreed custodial overtime of \$688,157, lower than the previous year. In fact Cessnock staff cannot be said to be particularly obsessed with overtime. Despite being slandered by the Minister and the Commissioner and linked, by innuendo, to articles about overtime rotting and greed, Cessnock has history on its side to disprove these claims.

When our Acute Crisis Management Unit was closed in 2002? Following an inmate on inmate assault that led to the suspension of the Executive Officer in charge, we were left with 13 officers surplus to requirement at the centre. Despite the impact on overtime availability this caused, due to having reserves on every day, the POVB sub-branch agreed to present no objection to our colleagues staying at Cessnock until natural attrition reduced the numbers to our new gaol establishment.

In fact, we went beyond this, still accepting compassionate transfers to Cessnock during this time, again despite the effect on overtime. Whereas compassionate transfers have become an industrial issue at some gaols for this very reason, at Cessnock we have never taken this stance. Over the last 15 years we have probably accepted more than 20 compassionate transfers.

Our staff do varying amounts of overtime, from none to a substantial amount. It should be noted that from time immemorial Management have applied subtle to not so subtle pressure to get people to do overtime when it suits them. An example of the second kind of pressure would include the oft heard quote "no one goes home until we get two volunteers to take this bloke to the hospital."

We are not questioning the need for Managers to ensure such exigencies are covered; just the hypocrisy of a Department that knows this is the case but chooses to slander its staff for doing the resultant overtime.

2(D) Duties Best Handled by Overtime

Custodial overtime can be best broken up into two types **Structural** and **Exigent**.

- Structural overtime is that which could be replaced by full time staff if the political will existed to do so. It consists of funding to alleviate the deficiencies of the 209 staffing formula and to fund any positions created outside the agreed custodial staffing establishment. At Cessnock this would be the officer supervising bail video link.
- Exigent overtime is created by actual gaol events, such as short term and long term hospital escorts. These cannot be reliably predicted and it would not be cost effective to create full time positions to cover all hospital (and funeral) escorts.
- However Cessnock does have 3 Search/Escort Officers during the week (and 2 on the weekends) to assist with escorts in the mornings and 2 afternoon shift Rovers who also can be involved in escorting duties. Although it must be noted that these same posts have an important security role to play in the gaol as responding officers due to our lack of a designated Immediate Action Team. Because of the increased risk to our staff during their absences, the POVB Sub-branch negotiated a three day limit on their use on long term hospital escorts.

- Beyond this time frame funding for overtime should be forthcoming from the Department, as it states clearly in our Operational Agreement that our 600 hours allocation is for gaol posts and officers at Cessnock and John Hunter Hospitals could hardly be described as such, nor can they render any assistance to their comrades back at the gaol.
- The unpredictability and expensive nature of long term hospital escorts is evidenced by recent history at Cessnock where in the last two years we have had up to 3 long term hospitalizations of inmates at one time, requiring round the clock guarding by two officers apiece. We have also had inmates transferred to our gaol 'state' (all inmates held at the centre) from St Heliers (Muswellbrook) and Newcastle Courts whilst still at hospital. Although these inmates had not set foot in Cessnock they were guarded by our officers to the detriment of our gaol budget and an obvious improvement in the other centres'.
- The other exigent overtime created in a centre comes from staff either working back or being called in as reserves in the event of assaults, escapes, fires, disturbances, riots etc. Again it is most unfair to use the necessity of this overtime as an excuse to condemn the alleged 'greed' of prison officers required to perform these duties.
- Two other forms of prison officer overtime should also be dealt with here. Custodial AI overtime has a history dating back to the negotiations for the original Operational Agreements in 1993. A major concern many gaols had was being told they were fully staffed despite a number of 'ghosts' being carried on the roster. These were long term absences who in some cases had not worked in their centres for years. (Cessnock's record was four years!) This was a major cause of high overtime usage, posts not being manned and even lockdowns of inmates.
- INDUSTRIES overtime is used to boost the profitability of gaol industries. Industrial Overtime should never appear in the debit column of a gaol budget unless the gross returns from all gaol industries at that centre appear in the credit column. Frontline overseers should get full credit for their impact on the Department's bottom line. That this does not appear to have happened at Cessnock, despite a number of very profitable endeavors, reinforces our belief that Cessnock has been falsely reported and "set up to fail".

2(E) Underfunding – How it is Disguised

The 2007/8 budget for Cessnock differed from the 2006/7 budget in a number of ways. This is significant in that this was the budget Deputy Commissioner Ian McLean relied on when he told our staff that we were \$2.8 million over budget and the Department planned to privatise Cessnock Gaol.

In the 2007/8 budget the budget for the centre's overtime was removed completely, and this has been repeated in the 2008/9 budget. This places the Department in breach of its Operational Agreement for Cessnock, to which the Commissioner is a signatory.

We believe the 2007/8 budget was designed to cast Cessnock in the worst possible light, in order to justify what the Department and the State Government intended to do. The budget purports to show a blow out from a \$90,000 deficit to one of \$2,773,399 from the previous

year. This was despite no change in the operations of the centre, such as staffing profile, inmate profile, inmate programs or the Operational Agreement.

This should have attracted a swarm of auditors, yet appears to have been accepted as accurate. A layman's look at the budget reveals the following:

- Corrective Services Industries (CSI) figures have been removed from the budget, despite the positive impact profits from industries, in particular the repair and refurbishment of demountables, has on the cost of running the gaol.
- Despite this, the cost of CSI overtime made it into the budget as part of an all up overtime bill. However industries overtime should have been included in the cost of sales and if it was then this is a case of Management's double dipping of the worst kind. CSI figures made it back onto the 2008/9 budget (4-underlined) but again their overtime has been wrongly included in custodial figures.
- What is also questionable in all the budgets is the presence of payroll tax as a genuine cost to the running of the centre. The 2007/8 figure is \$1,042,535 (1-underlined). As payroll tax is a state government tax and we are a state government enterprise, the net cost to the taxpayer is zero.
- Also questionable (2-underlined) are the depreciation figures, particularly for buildings (some of which are 35 years old). In 2007/8 these total \$2,645,441 including \$2,304,525 for the buildings. This is more an accountant's trick than part of the actual cost of running the gaol. The money was paid to nobody, the place will still be used as a gaol in fifty years and the state government doesn't file a tax return.
- Another figure is worth noting. As CSI figures were removed from 2007/8 we must use the figures from 2006/7. Note (4-red) that industries supposedly generating \$537,000 in profit are said to have cost \$937,000 in ADMINISTRATION.
- And these are just the big numbers contained in the budget. A thorough audit might be very revealing.

2(F) Diversion of Profits from Cessnock to Head Office

In his 2007/8 Performance Statement for the Commissioner of Corrective Services, Minister Hatzistergos states, "During the year, 28,937 inmate court matters were facilitated by video conferencing which represents operational efficiencies of \$8.278 million for 2007/8".

These operational efficiencies were achieved by using gaol staff on overtime manning Audio Visual Link set ups around the state. Yet no acknowledgment by way of a pro rata credit exists in our gaol budget. Instead the overtime incurred has been used against us to justify privatising our centre.

Cessnock POVB is on record as asking for the Audio Visual or Bail Video position at our gaol to be made a permanent position, as was the Department's original proposal around the State. This brings us to the Department's worst kept secret; overtime is cheaper than full time positions.

You don't have to recruit or train overtime, nor supply it with a uniform, or insure it. Overtime doesn't take holidays or any other form of leave. All these costs have already been met for those staff who perform overtime. It is the Department's preferred option at the same time as it is a weapon to use against front line staff. The hypocrisy of our 'leaders' knows no bounds.

In all the gaols coerced into taking more inmates in recent times, how many more full time positions were created? And how many were lost with the gaol closures this allowed?

How little overtime, per se, affects the Cessnock budget can be seen by comparing Management's figures for the 2006/7 and 2007/8 budgets. Overtime is listed as \$1.603 million in 2006/7 and \$1.208 million in 2007/8. The total employee related costs for 2006/7 were listed as \$18.053 million. The 2007/8 figure is given as \$18,504,975.

Allowing for pay rises the budgets are comparable. This is remarkable given the huge reduction in overtime, around \$400,000. This was most pronounced for A1 overtime. In other words we were fully staffed in 2007/8 and the resultant reduction in overtime was offset by a rise in those staffing costs associated with permanent staff.

The overtime blowout alleged by the Department and the Minister is nothing more than the sum total of all the overtime agreed to by the Department. The real issue is safe manning levels and the Department's lack of success in getting the POVB to voluntarily place their members in a more vulnerable position in the workplace.

The CSI figures removed from the 2007/8 budget also beg the question, why? Cessnock industries are a valid offset against the cost of running the centre. Again we draw attention to the \$937,000 under the heading "Administration" versus the \$537,000 net contribution (4-red lined, 2006/7 budget.)

Cessnock's position has strengthened in the 2008/9 budget in relation to the sandwiches, fruit and other foods now supplied to Tamworth, St Heliers, Tomago and ourselves (3-red lined). These total \$946,696 as an offset to the cost of running the centre.

It should also be noted that the Department's previous round of 'reforms' left us with a very costly, top heavy management structure at the gaol, to which a second Manager of Security (\$113,000 per year) has been added.

3. PITFALLS OF PRIVATISATION

3(A) Occupational Health and Safety

It states in the OH&S Act 2000 Division 1, Section 1(c) that the duties of an employer extend to "ensuring that systems of work and the working environment of the employees are safe and without risks to health."

Section 23 (1) states "An employer must not dismiss an employee, injure an employee in his or her employment or alter an employee's position to his or her detriment because the employee:

- (a) makes a complaint about a workplace matter that the employee considers is not safe or is a risk to health,..."

We believe the privatisation of Cessnock to be an attempt by the Labor Government and the Department to get around this legislation. The real issue is not overtime, but safe manning levels and the aforementioned parties unwillingness to pay for them.

The accompanying copy of a letter from the Minister for Justice cites reducing overtime and absenteeism as major reasons for privatising Cessnock. We have demonstrated that Cessnock's overtime usage is actually below the number of hours the Department has agreed to fund. And if they cannot budget correctly that is no fault of ours. In terms of overtime usage, Cessnock would not be in the top two of publicly run prisons.

In terms of absenteeism, the majority of POVb members were in Category 1 of the Department's own sick leave policy at the time the privatisation was announced. This is the best category of a policy designed not to penalise staff who are genuinely ill, as best proven by supplying a medical certificate. Again Cessnock would not be in the top 2 gaols for the amount of sick leave taken, so why are we in the top 2 gaols offered up for privatisation?

The Department loves to look for "patterns" in the sick leave taken by our members but chooses to ignore the most glaring pattern in the sick leave taken by managers from the rank of Assistant Superintendent all the way to the top.

There is an apparent culture in this Department that Managers, after years of hoarding their sick leave (to enhance their promotional prospects) utilize or 'cut out' all remaining sick leave in their last year or two of service.

To give you some insight to the impact this has, take the simple example of a gaol with 100 custodial staff. 99 are working full time and take an average of 12 days sick leave per year. That equals 1188 days for a gaol average of 12. The one hundredth staff member is an executive officer who cuts out 200 days sick leave during the year. That brings the total to 1388 days and the gaol average to 13.88 days.

We contend that this has been going on at our gaol and gaols around the state for years. We cannot remember an Executive Officer being health-quested. It should also be noted that these people are at the height of their earning capacity, especially since their salaries have been annualised, and that their absence creates a chain of acting up that also has to be paid for by the taxpayer.

If the Department doubts the honesty of the doctors that attest to our members contracting colds and viruses whilst working shiftwork in a gaol environment, then why are they not as sceptical of Managers who enjoy robust good health throughout their careers and yet almost universally are not in a condition to attend work at all in their last year or two of service?

An independent audit of sick leave for the Department's Managers for the last ten years is called for.

That aside, if overtime and absenteeism are indeed the reasons for privatising Cessnock, yet casuals and a new sick leave policy are believed the answer in every other publicly run gaol, why is Cessnock being singled out, given that other gaols are more guilty of these alleged sins? It hardly seems a 'just' outcome.

We believe the answer lies partly in our history as a union of fending off proposals to reduce our staff which would have violated our safe systems of work if allowed to proceed. We have independently come to the same conclusions as the two academics who wrote the accompanying document "Value for Money Neo-liberalism and New South Wales Prisons." We believe our privatisation will be used to coerce other gaol union delegates into accepting staff cuts under the "Way Forward" proposal against their better judgement and against the legitimate safety interests of their members.

Our knowledge of, and use of, the OH&S Act for the protection of our members is unlikely to be matched by any future delegates in a privately run gaol. Their high staff turnover works to the advantage of Private Managers when dealing with inexperienced people. Most of the union disputes they have had around the world have centered on their desire to have no such thing as a safe manning level, but to open up the institution and run everything with whatever staff turn up on the day. This in turn demoralises staff who tend to leave. As protective legislation can only be used by people who know of its existence and how to use it, private operators will repeat their behavioral patterns whenever they think the 'coast is clear'.

The impact on inmate safety is straight forward. If Custodial Staff do not feel safe enough to adequately perform their duties, then the safety of vulnerable inmates is greatly compromised.

3(B) Public Safety

The proposed privatisation of Cessnock Gaol represents a triple threat to public safety. Given that escapes of prisoners and their subsequent actions while at large in the community are the basis of that risk, Prison Officers need the highest levels of vigilance if the State's current record of low escapes is to be maintained.

The first threat comes from the impact on existing staff of what the Department and the Government propose. Extensive studies of 'downsizing' overseas list the following effects on staff faced with this situation.

- Loss of motivation.
- Inability to concentrate on the job
- Increased conflict in the workplace
- Absenteeism
- Psychological disorders
- Work time spent looking for another job
- Sabotage of own workplace.

Some of these effects are already manifesting themselves among Cessnock staff, but as the staff still retain some hope of this atrocious decision being reversed, the worst is still to come.

This gaol does not run as smoothly as it did before the announcement was made. The time leading up to any changeover will bring heightened risk of inmates seizing any opportunity, such as hospital escorts to make an escape attempt.

As the majority of our staff will remain in the public system and elect to transfer, many will take with them a much more negative attitude to their job and the Department. This will not translate to the same level of commitment to work standards as they previously held.

The second threat comes from the likelihood that a private operator will have a few experienced staff at the time they take over the institution. Also any existing staff who agree to work for the private operator are likely to be very dispirited. They will not be very favourably looked upon in a community with a mining and trade union ethos and where the issue of privatisation has had extensive media coverage. It is likely such a workforce will be more prone to making mistakes.

The third threat is that of the long term variety. After the private contractors have bedded in their new acquisition, a time during which they may devote extra resources, the day will come when they wish to maximise profits. At this time they will begin to 'cut corners', always being prepared to backtrack when things go wrong. This will seem reasonable from their perspective, as their duty lies to their shareholders, not to the people of the Hunter Valley or even the State of NSW.

In reality the Department's assurances of no added security risk ring hollow. All the risk will be borne by the local community. And it may well happen some time down the track, when the people most responsible for this stupid decision are long gone.

3(C) Safety of Prisoners

At the Public Accounts Committee - 'Inquiry into Value for Money from NSW Correctional Centres' in 2005, witness for GEO Australasia, Colin Kelaher, stated the inmate mix was "...predominantly medium security, protection profile of inmate" and "there is a lot of minimum security inmates".

Historically Junee was designed to be a 600 bed medium security gaol for mainstream, normal discipline prisoners. After what we believe were attempts to save costs on feeding these inmates by the private operator, there was a riot which nearly led to the gaol being lost. So serious was the situation that public sector Emergency Squad Officers were flown, by helicopter, to Junee to put down the riot before the amount of structural and infrastructure damage could render the gaol unusable.

The gaol remained under private contract but was downgraded to minimum security. This caused problems throughout the public system with inmates inappropriately classified to minimum security due to the dearth of medium security beds. This became an industrial issue at Cessnock when anecdotal evidence from inmates moved from medium security Bathurst suggested that they were moved to minimum security Cessnock for "playing up".

Pieter Bezuidenhout, Managing Director, GEO Australasia, told the Public Accounts Committee, "People often say that we get all the easy inmates. That is not factually true. I can prove that to you. The inmate demographics make it a particularly difficult facility".

And yet Junee is still not operating with the type of inmates it was originally designed to house. Fears of a repeat riot have led to a preponderance of protection inmates. There are three reasons protection inmates would be the last to take part in a gaol riot.

- They lack the courage.
- They are notorious informers, making planning difficult.
- In the event of a riot they are often higher value targets for other inmates than the Prison Officers.

We reject claims that Junee inmates are directly comparable to those we currently manage at Cessnock. We know our own inmates and what they are capable of if the right, or wrong, set of circumstances present themselves. Riots are not a thing of the past. The Department is already creating some of the necessary conditions by inducing overcrowding, uncertainty and stress upon both officers and inmates. To try to run Cessnock with the current inmates and a new, inexperienced staff might be the match to start the conflagration.

As the Department controls classification and placement of inmates, it has the ability to make any centre look good or bad. It has also the motive to go with the means in that it uses privatisation as an industrial weapon against public gaols and our union. Any remixing of the inmate profile would come at the expense of other public gaols who would once again be the proud recipients of wrongly classified inmates.

The Victorian experience is relevant. The private operators were handed half the prison system and gave back the gaol that proved too hard to handle. This was hardly fair to the public sector workers.

At Cessnock, the safety of our inmates has been enhanced when stability prevails and experienced staff are allowed to manage inmates unmolested by head office. Those inmate murders that occurred in Cessnock minimum security section took place during times of upheaval brought on by the Departments previous bouts of 'reform'.

3(D) Operation and Deficiencies of a Privately Run Cessnock

We would not accuse private operators of not being adaptable, if Junee is any guide. If it proves too difficult to gouge profits out of scrimping on expenditure on the inmates, then strip mining of the staff wages and conditions will be the preferred option.

Programmes will probably be kept to the letter of the contract, with little innovation to be expected in this area. Industries that make money may survive but those that merely provide job skills may be at risk. Whether a private operator can retain staff skilled enough to run currently profitable industries at the same level of output remains to be seen.

Some level of compliance from the inmates may be bought by incentives unavailable in the public system, such as unlimited time in the gymnasium and less pressure to work or do programmes

A high level of use of casual staff will bring frustrations for some inmates and provide opportunities to others. Attempts to bribe officers to bring in contraband, pretty much a thing of the past at Cessnock, will be made on a regular basis. And staff, pressured by lower wages and less safety, may be amenable to such attempts.

Relations with staff in publicly run gaols will be strained due to the circumstances of the takeover of the centre. This may make co-operation on logistical issues difficult.

The performance of private operators around the world has tended to be a downward spiral. So the initial performance maybe as good as it gets.

This could include higher assault rates on staff and inmates, escapes, riots and disturbances, trafficking of contraband, illicit drug use, higher recidivism and loss of public confidence.

4. IMPACTS ON INMATES AND COMMUNITY

4(A) Warehousing

The first responsibility any private operator has is to its shareholders. This means that any serious attempt at preventing people from returning to prison runs counter to its fiduciary duty. So other than the bare minimum necessary to retain a contract, programmes and work skills provided for inmates are not in the best interests of the company and its shareholders.

What is best is increasing the number of prisoners. Indeed in the USA private operators form lobby groups to push for more custodial sentences and extension of even the number of offences deemed a crime worthy of prison.

If applied here, this type of lobbying would mean the cheaper cost per day claimed by the private system would be rapidly lost by the ever increasing number of people going to gaol. A great result for the private operators and their apologists but not for the people of NSW.

That the Department of Corrective Services is itself headed down the path of warehousing is shown in the Commissioner's Performance Statement for the Deputy Commissioner" Corporate Services, where he lauds Mr Schipp for the following, "sought and gained an exemption from NSW Health from a restriction under the Public Health Act which prevented two unrelated people sharing a room which was less than 11 sq metres in area. This allowed the Department to alleviate its short-term bed shortage by having bunk bed accommodation installed in correctional centres".

It may also have played a role in allowing functional gaols with permanent staff to be closed whilst cramming more inmates into existing centres and funding upgraded security on an overtime basis only, leading to the alleged overtime blow out.

If rehabilitative programmes can keep even a small percentage of inmates from reoffending surely the effort is justified? The human cost of both crime and imprisonment alone justifies making an effort. And in terms of making an effort the public system, by its very nature, is streets ahead of any private operator.

4(B) Cessnock Gaol and the Community

The level of support from the local community during our struggle to keep Cessnock in public hands has been outstanding. It has also allowed us an insight into how involved our staff members are in their community and what will be lost if the decision to privatise causes many of them to move away.

We have people involved in rural fire services, school P&C's, coaching all kinds of sporting teams, involved in the business community as respected members of that community, on the Cessnock Council and members of regional clubs. Beyond that is a network of relationships with former work colleagues who have left or retired but maintained friendships 'forged in adversity'.

We have the support of other trade unionists in an area with a solid trade union history. Make no mistake" this is not another Junee. Any private operator who thinks a little initial glad-handing of the locals will smooth their path could be in for a rude shock at Cessnock.

The chances are that any employees of a private operator may never be accepted in Cessnock and that former public system officers who make this transition may pay dearly in terms of friendships lost and general community hostility.

As trade unionists we also reserve the right that, whilst operating within the law, we may make this a long and bitter industrial campaign that continues even after a private operator has taken up residence.

5. CONCLUSIONS

We believe the decision to privatise Cessnock and other parts of the Public Prison System is flawed on a number of levels.

- It is ethically wrong, prisons should not be run for profit.
- As one of the three arms of the Justice System, prisons should be afforded the same respect as courts and the police, and their operations should be beyond reproach.
- The Public Accounts Committee 'Value for Money' Inquiry was itself flawed. It equated value with cheapness, a situation that would never occur with, say, the furniture at Parliament House. And having equated value with cheapness, it couldn't prove the cheapness.
- The decision is not in the national interest. The only skill the foreign owners of private prison companies possess is a willingness to underpay and under staff for a service we have been quite capable of rendering ourselves since 1788. This leads to millions of dollars being added to our current account deficit unnecessarily.
- The human cost of privatisation to the current staff at Cessnock is too high. For a workplace which had a suicide epidemic in the early 2000's, which made it the highest rate in Australia, to be so callously treated by its employer and an alleged Labor Government is a disgrace.
- Whatever alleged savings the whole "Way Forward" package brings will be gobbled up by our ever increasing bureaucracy. In the last few years the inmate population has increased by 2000, the number of Departmental employees by 1000 and the number of frontline Prison Officers has remained virtually static.
- Our Department represents the utmost argument for an audit of all who work for it and what they actually do, top to bottom.
- We maintain our belief that we were set up to fail and that gaol budgets have been manipulated to achieve this end. Again a full and credible audit is called for.