

Submission
No 109

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

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SUBMISSION TO THE INQUIRY INTO THE PRIVATISATION OF PRISONS AND PRISON-RELATED SERVICES

The Police Association of NSW represents the fifteen and a half thousand serving Police Officers of NSW. Our interest in the management of prisons follows naturally from the nature of the policing profession and the fact that the prison population exists mostly as a result of the efforts of our members. The role of the police in the detection and solving of crime resulting in the imprisonment of offenders is crucial to the effectiveness of the criminal justice system. Any suggestion that the end results of their efforts is to be changed will naturally raise legitimate concerns.

The criminal justice system (from investigation through arrest, trial and, where appropriate, imprisonment) is founded on the appropriate and extraordinary powers that are granted to government in the compact between civilians and the parliament through the ballot box. The powers granted include the power to deprive an offender of his or her freedom through the use of coercive force. These powers are not granted lightly and are granted solely to the elected government which is ultimately accountable to the citizenry. It is therefore a very serious matter for a government to transfer the exercise of those powers to any private for-profit organization that is not directly accountable to the people. The state alone has the authority to imprison and punish people who have offended its laws. Delegation of such powers to those outside of government is most unusual and replete with risks.

Private companies fundamentally are responsible to their shareholders to generate a profit on funds invested. Indeed, company directors would be acting contrary to their fiduciary duties if they were to engage in projects that they knew would be likely to not be profitable. The company's primary duty is to the shareholder. It cannot be said that the interests of the shareholders and the public interest may always coincide – indeed all too often we know that this is not the case. The current world economic crisis is as a direct result of the clash of interests of private organizations and the general public.

This conflict of interests raise a number of concerns regarding the potential risks of outsourcing the management of prisons to private companies:

- What will suffer as a result of the need to make a profit? Either services and standards will be reduced or more will be expected of less staff with less resources. The only other alternative will be to increase the cost to government for the provision of services that were previously provided in a not-for-profit environment.
- How will government monitor the provision of services? It is in the public interest that the provision of prison services be strictly monitored and this will necessarily be an added cost to government.
- How can there be a guarantee that corners will not be cut to meet the economic demands of making a profit for shareholders? Will this result in a cheaper, less professional workforce?
- If contracted services are remunerated on the basis of the size of the prison population, what incentives will there be for the provider to rehabilitate offenders?
- Will the financial imperatives of filling the prisons lead to overcrowding?
- What incentives will there be to be creative in dealing with prisoner rehabilitation? Why would a provider go beyond a contract of service unless it was in the context of negotiation for increased financial benefits?
- How does the provider become accountable beyond the terms of the contract and contract law? Private contractors are insulated from public scrutiny – they are not subject to the same controls and oversight that apply to the government and public sector employees. How does the government maintain its responsibility for prisons and not be seen to be wiping its hands of this responsibility?
- Is there a real possibility that the safety of both the inmates and the public will be jeopardized through inadequate staffing, training and resources in an effort to increase profit margins? How can this be avoided?
- Will there be a higher staff turnover with private contractors? Will this mean less experienced staff with little preparedness to respond to riots, fires or escapes?
- What is the risk of increased opportunities for corruption within private companies that are not subjected to the very rigorous oversight and training of government prison officers?
- What is the risk of and potential impact if the private company goes bankrupt?

- What are the legal and ethical issues surrounding the granting of the power to exercise coercive and possibly lethal force to a private company whose primary accountability is to its shareholders and not the state?

Beyond these very difficult questions that require addressing, the Police Association of NSW has major concerns about any move to outsource prison administration to private companies. Police have a significant interest in ensuring that offenders who have been given a custodial sentence as a result of successful police work, should serve out their sentence. Any potential weakening of the prison structure to increase the possibility of escapes would be most disturbing not only to police but to the general public.

Corrective Service officers also provide services for prisoner transfers and court security. There is a high risk of violence and escape in both these circumstances. The risks to the public are obvious. Police and Corrective Services officers are highly trained to deal with violent offenders. Corrective Services officers also provide security in some police stations, freeing up police to do proper police work and increase their visibility on the streets. Any move to reduce the provision of these services would be strongly resisted by the Police Association of NSW.

Police can now be assured that Corrective Services officers carry out their duties with a high standard in regard to prisoner searches and cell inspections. They are highly trained and aware of the need to maintain strict confidentiality with respect to the information that they are exposed to in the course of their duties. They are trained in weaponless control and are able to be relied upon to assist police in their duties. Corrective Services officers maintain high standards of integrity and subject to strict accountability for all aspects of their duties, including the handling and transfer of prisoners' property. Often police and Corrective Services officers share workplaces and there is a high degree of shared trust and commitment in situations that require the handling of sensitive information.

In summary, the Police Association of NSW is gravely concerned about any move to reduce the high standards of prison administration. It is concerned that a move to private for-profit companies would jeopardize the safety and efficiency of the prison system. Beyond the very considerable public policy issues alluded to at the beginning of this submission, before any changes to the current prison arrangements were considered, we would seek assurances that the following are guaranteed:

1. There is no reduction in levels of safety for police and the public in any changes being considered.
2. That the current high levels of training for prison officers be maintained.
3. That current selection procedures for prison officers be maintained at their high level.

4. That the prison administration and officials continue to be subject to the same high levels of accountability and scrutiny.
5. That there be no reduction in the levels of quality service that are provided by Corrective Services officers to prisoner transfers, prisoner security in police stations and court security.

Evidence from other jurisdictions and overseas does not give a great deal of support for the successful privatization of prisons. Higher numbers of complaints, increased violence and more escapes appear to be common problems. Nevertheless, it is difficult to make comparisons between NSW and the prisons in say, the United States, where systems are radically different and prison populations are massive. It is clear, however, that the obvious risks involved in changing the current system in NSW need to be addressed before any changes are made. Whatever approach is taken, government cannot remove itself from being ultimately responsible for all elements of the criminal justice system. For these reasons, the Police Association of NSW is fundamentally opposed to the privatization of prisons.

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