

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

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Inquiry into the privatisation of prisons and prison-related services

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The claim that privatisation can produce large scale reductions in the cost of the service is not supported by the facts. The Roth Report of 2004 found that worldwide, there is consensus that privatisation does not lead to discernable financial savings for governments. This worldwide experience and consensus has not changed since 2004.

It beggars belief that the NSW government has been able to find savings where all other governments have not. But the NSW government has gone even further, by asserting that it can achieve large scale savings with ease. This would appear to be a miraculous achievement if it were true.

There is no miracle involved. The department plans to achieve these large scale savings through the wholesale destruction of rehabilitation programmes. The proof of this statement is that contracts arising from the privatisation process will specifically exclude any responsibility for rehabilitation. Already, staff have been advised that the Prison Industries at Cessnock Correctional Centre are to be closed. This has been a core rehabilitation activity of the Department for years. It is almost certain that other rehabilitation programmes and services will be cut back too.

Privatisation fails to provide a remedy to the real driving force that has led to an explosion in the cost of the Department of Corrective Services. That driving force is not a "recalcitrant" union, nor supposed overtime robbing, nor an inefficient bureaucracy: it is in fact the rapidly increasing prison population, which is rising substantially faster than the general population. No amount of privatisation will address the explosion in the prison population. The best it can do is to provide a means to accommodate this ever increasing population.

However, there is a way to arrest the growth of the prison population: through proper support for rehabilitation. The experience of Victoria over the last 4 years has proven this beyond doubt. The Victorian imprisonment rate is 50 percent lower than NSW, and the prison-to-prison reoffence rate is 36.5 percent and this rate is dropping year on year. In NSW the reoffence rate is stuck at 43.5 percent. The NSW reoffence rate is not only higher than Victoria, it is actually significantly higher than the national average.

It is clearly evident that relatively speaking, NSW policies have failed miserably to rehabilitate offenders while Victoria has succeeded. As a result, Victoria saves hundreds of millions of dollars each year, because its prison services need to only cater for a relatively small prison population. In the meantime NSW is locked into an ever expanding prison population.

And as a result Victoria has also avoided the need to build new prisons. Meanwhile NSW has to find \$200 million each year to pay for the construction of new prisons.

If NSW could emulate the Victorian experience,
it would save over \$400 million per annum,
or 40 percent of the current State budget deficit.

NSW is at risk of being penny wise and pound foolish. If privatisation jeopardises our commitment to rehabilitation or becomes an excuse for avoiding rehabilitation, any savings identified will be an illusion.

In the event that privatisation is allowed to proceed, any rehabilitation programmes will be required to "tender" to the NSW government. In addition, those wishing to run rehabilitation programmes through prisons that have been privatised will be required to gain consent from the company managing the Correctional Centre.

It is conceivable that current or future rehabilitation programmes could be prevented because they are likely to increase supervision costs for any private operator. Here lies a problem. Private operators are being asked to tender for security services, whereas the Department has a broader mandate that expressly includes rehabilitation (that is why it is not called the Department of Prisons, but rather the Department of Correctives Services).

Private operators are only required to maximise their contract. Therefore, any contractor must have the right to refuse rehabilitation programmes, or to negotiate adequate compensation for additional costs incurred to supervise rehabilitation programmes. In the event that the Department of Corrective Services chooses to maintain or increase its commitment to rehabilitation, any existing contractual arrangement could inhibit that commitment or lead to contract variations.

It is my experience that the NSW government habitually underestimates the significance of contract variations over time. It is entirely conceivable that early cost savings arising from privatisation could be wiped out as government policy changes over time.

Privatisation is likely to Inhibit future rehabilitation programmes

Policy changes over time are likely to Lead to expensive contract variations

This government is using privatisation as a back door way to walk away from its stated commitment to reduce crime. There is absolutely no evidence that harsh prison terms reduce crime, but there is clear evidence that crime is reduced through properly funded rehabilitation programmes.

This government's shabby preference for incarceration as punishment rather than as supervised rehabilitation is entirely unjust. It encourages the continuation of the cycle of violence that will inevitably lead to more crime and more victims of crime.

As the Minister of Justice is well aware, minorities, the poor and other disadvantaged groups are disproportionately represented in our prisons. His preference for repression rather than rehabilitation can be seen in effect, as active discrimination against minorities. Nowhere is this more true than for our indigenous communities.

The government's position on privatisation

Fails miserably to address social justice issues Encountered by the Department of Corrective Services.

General indicators of inmate welfare within the NSW prison system are not encouraging. According to the latest Annual Report of the Department of Corrective Services, out-of-cell time is lower than the national average and is continuing to decline (p31), visitor rates are also lower than national averages (p35), and prisoner-to-prisoner assaults are higher than national averages (p29).

According to Annual Reports of the NSW Ombudsman, the privately managed prison at Junee has consistently generated significantly more complaints from inmates than any other correctional centre in NSW.

It is of great concern that there is an established trend across NSW of worsening inmate welfare indicators. It suggests the government is relatively unconcerned with any further declines in inmate welfare. The question could legitimately be asked: Is the government at risk of breaching the basic rights of inmates?

What is of most concern is that even within this broad decline being experienced within the Department, that Junee, the only privatised prison in NSW, stands out as the source of more complaints than any other institution in NSW.

This is clear evidence that this government is not prepared to ensure privatisation does not unduly harm inmate welfare.

There is clear evidence that privatisation Harms inmate welfare.

In 2006, the Victorian Public Accounts and Estimates Committee was unable to determine whether the privatisation process delivered value for money because relevant information was withheld on the basis of it being subject to "commercial in confidence" agreements.

Commercial in confidence prison privatisation agreements are used and consistently criticised around the world. The industry is plagued by a lack of disclosure. If there is no disclosure, there is no accountability.

On 30th October 2006, The Age reported that 30 pages of a Victorian report to Parliament that referred critically to specific PPP contracts were removed from an earlier draft before it was tabled in Parliament.

Is the NSW experience so different? Most of the Department's analysis that is being used to justify privatisation has not been open to public or professional scrutiny. The public has been deprived the opportunity to have any confidence in the scope, impartiality and professional rigour of the assessment team.

Any commercial contracts entered into must Exclude the use of Commercial in confidence agreements.

Conclusions

Over the years the NSW government has sought to contain the ever ballooning expense of the Department of Corrective Services. It has imposed restrictions on payrolls and removed whole layers of managers and now it seeks to privatise whole Corrective Centres. It has to be conceded that each initiative has brought some identifiable cost saving and this may very well occur again if privatisation is allowed to make further inroads into the Department.

However, somewhere along the way the Minister and the Department has lost sight of what service it is ultimately supposed to deliver. It never was supposed to be a collection of punitive prisons. It was and is called the Department of Corrective Services for a reason.

Contracts for privatised Correctional Centres exclude any reference to rehabilitation activities. This creates a contractual tension between contractors and the NSW government that is likely to cost the government dearly in the future, because one day the government will finally rediscover its obligation to rehabilitation and need to renegotiate those contracts with adequate compensation for contractors.

The NSW government must realise that it does not have to resort to privatisation in order to extract enormous cash savings from the Department. A substantial rehabilitation budget of say, \$40 million, partly in conjunction with NGO partnerships, could save in excess of \$400 million per year.

This is the "real game", so if privatisation must proceed then it should only proceed in such a way that it always supports but never inhibits any commitment to rehabilitation.