

INQUIRY INTO PARKLEA CORRECTIONAL CENTRE AND OTHER OPERATIONAL ISSUES

Organisation: Justice Action

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PARKLEA UPPER HOUSE INQUIRY



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Executive Summary

This paper explores the evident organisational and structural inadequacies of the privately owned Parklea Prison, known for its many recent scandals. It will aim to illustrate the unavoidable truth of the long and short-term effects of prison privatisation.

Prison privatisation refers to the transfer of ownership and management of correction centres and prisons from government control to private sector actors. Privatisation allows private actors to service businesses that rely on growth in order to generate profit. The circumstance of prison management thus depends heavily on the influx of prisons to increase profits. A recent rise in the transfer of publicly owned prisons in Australia to private enterprises correlates with the highest incarceration rates in Australian history.¹ Giving private actors control of prison management creates issues regarding prison welfare, including questions of facility deregulation and profit being prioritised over rehabilitation.

Parklea Prison has experienced several failures that have been poorly (if at all) rectified by operation and management. This paper presents the ethically and morally questionable treatment of prisoners in Parklea Prison and identifies key inadequacies and a lack of accountability in private prisons. These include an increase in incarceration and the idea of maximising profits at the expense of those imprisoned. Further, this paper examines the low standard of care and tendency of staff to adhere to minimum standards in accordance with the cost-benefit approach of such private corporations.

This paper addresses Term of Reference (f): *the appropriateness and operation of private prisons in New South Wales*. Through supporting evidence from media and government enquiries, we see that private prisons are not sustainable in the long-term and impact negatively on those living or working in them. Taking into account violations and the poor track record of private prisons, we question the future sustainability of these prisons. There is an obvious need to move away from privatisation if eradication of the misuse of power, better treatment and the rehabilitation of prisoners are priorities for Corrective Services NSW.²

Terms of References criteria (a) to (e) are addressed in a selection of media articles,³ which expose the structural, systematic, and financial problems of private prisons.

Justice Action further presents evidence against privatisation of prisons through our report on the planned new prison of Grafton NSW⁴ and strongly argues

¹ Australian Bureau of Statistics, 2015.

² Refer to Appendix C

³ See Appendix D

⁴ See Appendix A

against the planned privatisation of the prison by SERCO. The SERCO report illustrates proof of operational failures, misuse of power, and a focus on profit-maximisation instead of rehabilitation, evidently questioning the effectiveness of privatisation models for prisons in Australia.

Justice Action believes that higher incarceration rates are not in the public's interest, and that 'solving' issues such as overcrowding and resource constraints through the privatisation of prisons is unsustainable and largely counterproductive. Prison structures, traditionally, were state institutions aimed at protecting the public good but are now being treated as profitable business ventures.

Parklea Correctional Centre, owned by GEO, is a prime example of the many issues and deficiencies of the private prison system. Parklea - along with Junee Correctional Centre - incarcerates 15.8% of the total population of inmates, accounting for 1,604 prisoners out of 10,477.⁵ With such a substantial amount of prisoners being incarcerated in private prisons, it is imperative that they have the same standards of care as that of the prisoners in public prisons. Further, the management of private prisons must be as transparent as their public counterparts. However, there are many issues with privatisation that suggest that this is not the case.

The operations of Parklea have come under serious scrutiny following various incidents that demonstrate failure of management and the poor environment in which the prisoners live. A video posted by a former inmate in July 2017, revealing a cell laden with contraband he claimed was brought in by guards is just one example of this. Further investigations have also been conducted after the stabbing of a guard and fires being started in maximum-security,⁶ leaving questions about illegal behaviour by staff and prisoners.⁷ Public Service Association General Secretary Troy Wright stated that this was "just another shocking example of prison's private operators GEO not being able to run this centre safely and effectively."⁸ This ultimately led to a review by Corrective Services Commissioner Peter Severin, who met with GEO Group management on

⁵ Productivity Commission, 2015.

⁶ Luke Cooper, *Parklea prison cell fire sparked by inmate setting blanket alight* (17 January 2018) 9 News Australia <<https://www.9news.com.au/national/2018/01/17/14/51/parklea-prison-cell-fire-sparked-by-inmate>>

⁷ Stephen Gibbs, 'This place is a dead set joke': The shocking truth inside Parklea prison-the privately-run maximum security facility becoming Australia's most notorious jail thanks to stabbings, drugs and contraband goods', *Daily Mail* (online), 18 December 2017 <http://www.dailymail.co.uk/news/article-5177905/Parklea-prison-Australias-notorious-jail.html?ITO=1490&ns_mchannel=rss&ns_campaign=1490>.

⁸ Janet Fife-Yeomans, *Parklea Correctional Centre prison officer stabbed by inmate* (28 September 2017) The Daily Telegraph <<https://www.dailytelegraph.com.au/news/nsw/parklea-correctional-centre-prison-officer-stabbed-by-inmate/news-story/28c9a4f05bb57ab89905ab8b80fc5db4>>

the 10th of July 2017 to discuss security and safety concerns.⁹ Thus, there are clearly issues with the privatisation of NSW prisons, but a lack of action being taken.

These scandals, which continued until the end of 2017, led to the establishment of the Upper House Parliamentary Inquiry into Parklea's prison system. As investigations unfold, it has become increasingly clear the system is in need of reform. There are many important consequences and options that need to be evaluated before contracting a vitally important public institution out into the hands of private business.¹⁰

Information obtained from the terms of reference, listed for the Parliamentary Inquiry into Parklea and issues raised by the media will guide this submission, raising concerns regarding the privatisation of prisons.

⁹ NSW Government Justice, *Safety Review at Parklea Correctional Centre* (10 July 2017) NSW Government Justice <<http://www.justice.nsw.gov.au/Pages/media-news/media-statements/2017/Safety-review-at-Parklea-Correctional-Centre.aspx>>

¹⁰ Justice Action, *Prison Privatisation* (2017) Justice Action <<http://www.justiceaction.org.au/prisons/prison-issues/privatisation>>.

Negative Effects of Privatisation

Justice Action has opposed the privatisation of prisons, drawing upon experiences across Australia, as well as in the United States, England and New Zealand.

1. Structure of Private Prisons

Private corporations have a duty to make a profit and survive as a matter of law. The obligation of the state is to provide traditional government functions, such as state administration, a fair and functioning legal system, and police protection. The obligations of the state do not apply to private corporations, and thus, they operate differently. Unlike management in other sectors, control in prisons can be achieved not only through routine, but coercion as well¹¹. Given the serious nature of this task, the use of coercion should remain within the regulation and control of the state, rather than risk being abused if delegated to private enterprises. The cost-cutting model of private companies is diametrically opposed to the nature of a prison.

Australia has struggled to obtain rights for prisoners akin to those deserved to any other human. The privatisation of prisons will perpetuate this country's poor record. Since the implementation of the private system, deaths in custody and incarceration rates have been higher than at any other point in Australian history.¹²

2. Incarceration Rates

The continuing creation and existence of a privatised prison system encourages the production of incarceration policies.¹³ The most notable example of prison privatisation, which operated at Tallong, NSW, for about one year until 1985 shows this.¹⁴ For this prison to be viable it required approximately 40 youths to participate at each of the four stages of the yearlong program. As 40 "graduated" from stage four, another 40 should be entering the program at stage 1.¹⁵ This shifts the role of imprisonment from the common law presumption of being a last resort form of punishment to being a regulated inflow of people to enable a corporation to remain profitable. Thus, incarceration increases unnecessarily in order to maintain quotas. The shift of the incarceration paradigm from rehabilitation to profit is concerning.

The link between privatisation and the increased incarceration is further illustrated through a look into the US prison system. According to the American

¹¹ Brown, A. (2008). 'Economic aspects of prison privatization: the Queensland experience'. *The issues corrections*, 105.

¹² Australian Bureau of Statistics, 2015.

¹³ Richard Harding, 'Prison Privatisation in Australia: A Glimpse of the Future' (1992-1993) 41 *Journal of the Institute of Criminology* 9, 20-21.

¹⁴ Ibid.

¹⁵ Ibid.

Civil Liberties Union, 6% of state prisons and 16% of federal prisons are privately run. Currently, the US boasts the highest prison population rate in the world, at 716 per 100 000 people. Despite claims that violent crime has decreased, the rates of incarceration are still on the rise. The need for privately owned prisons to create profit suggests a correlation between incarceration and privatising prisons, rather than with an increase in crime rates.

Privatisation allows more power to the individual groups that run the correctional centres and prisons. This potentially produces a space for systematic corruption. In the United States, CCA and GEO Groups have had a hand in shaping and pushing for criminal justice policies such as mandatory minimum sentencing that favour increased incarceration. In the past, they have supported laws like California's three-strikes law, and policies aimed at continuing the War on Drugs.¹⁶ In retrospect, these prison quotas enforced by companies are a blatant rejection of the welfare of the accused individual.

Another issue surrounding privatisation is that it comes with the risk of companies using political behaviour to maintain and increase incarceration rates in order to ensure a future source of revenue. The actions of CCA and GEO, two groups in the United States, exemplify the potential risks of privatisation. The Centre for Responsive Politics reports that CCA spent \$17.4 million in lobbying expenditures between 2002 and 2012, while GEO Group spent \$2.5 million between 2004 and 2012.¹⁷ This indicates that private prison companies wield a disproportionate level of influence on laws and political opinion regarding incarceration.

3. Accountability and Transparency

There is rising concern that private contractors would not be subject to the same degree of scrutiny as public operators due to an absence of direct chains of accountability.

There is a lack of incentive for privately run prisons to report incidents. Private prisons receive funding from the government on a bonus and penalty basis. Bonuses can be reduced for riots and deaths in custody, and penalties can be imposed for erroneous discharges, assaults and prisoner drug use, amongst other things. As such, private prisons tend to cover up incidents which could threaten performance bonuses worth up to \$500 000 a year.

This practice of burying unfavourable information furthermore negatively impacts the means by which private prisons deal with employees. Amongst the many instances of corruption and breach of duty within Parklea staff, only in one case did Parklea explicitly reveal the steps and measures it took in response to the incident, whereas many others remain unresolved and unexposed. Many staff members, who breach their occupation obligations, are told to resign so as to prevent the private contractors from attracting media attention. This conceals

¹⁶ In the Public Interest (2013). *Criminal: how lockup quotas and 'low-crime taxes' guarantee profits for private prison corporations.*

¹⁷ Ibid

the issue from public scrutiny, allowing private enterprises to reap publicly funded benefits without being held appropriately accountable.¹⁸

Contracts between the government and Parklea prison are moreover not publicly available.¹⁹ While private prisons may be required to report to government as a part of funding contracts, there is no requirement to report to the public as they are protected by “commercial in confidence” clauses.²⁰ With the background of sub-contractual and commercial-in-confidence legislations, private prisons are able to keep confidential, commercially sensitive, and often controversial information undisclosed and away from the full scrutiny of both the government and the public. This acts as a significant barrier to external accountability from Corrective Services NSW and the general public.

Privatised prisons also distance themselves from government oversight by sub-contracting work out to outside agencies.²¹ Parklea CC under the operations of GEO group is not obliged to publish or reveal key information under *The Government Information (Public Access) Act 2009*, which is not only against public accessibility interest but also hinders justice which could be delivered via freedom of information laws. This issue of accountability when considering the near immunity of privatised prisons run by GEO group, and the failure to meet obligations and duty of care thus hinders the effectiveness of the prison system.

4. Staffing levels and Staff safety

The quality and numbers of staff in private prisons are notoriously poor, as research into privately contracted prisons across various nations has revealed.

In New Zealand, casual employees conduct large amounts of work in private prisons. Due to their casual position, they are inexperienced, do not work as frequently or consistently as permanent workers, leading to an ignorance of prison operations.²² Similarly, in a US prison staff turnover was found to be rampant, leaving inexperienced guards to manage tough populations.²³

The drive for profit from privatisation negatively affects both the safety of prisoners and prison employees. *Catholic Prison Ministry* (2014) argues that the ‘profit imperative’ creates tension “between profits and the responsibility of corrections to effectively rehabilitate prisoners and support their re-entry into the community”.²⁴ This drive for profit materialized when the Victorian Government reclaimed the Metropolitan Women’s Correctional Centre from the

¹⁸ From Submission of Bart Birch et al. on *Corrections (Contract Management of Prisons)* Amendment Bill, 4.

¹⁹ Andrew et al (2016). ‘Prison Privatisation in Australia: The State of the Nation’. *The University of Sydney Business School*, 20-30.

²⁰ Green et. al (2014). ‘Privatisation of prisons: key issues’. *Catholic Prison Ministry*, 1-10.

²¹ Ibid.

²² From Submission of Bart Birch et al. on *Corrections (Contract Management of Prisons)* Amendment Bill, 5.

²³ Kirkham, C (2013). ‘Private prison empire rises despite startling record of juvenile abuse’. *Huff Post*.

²⁴ Green et. al (2014). ‘Privatisation of prisons: key issues’. *Catholic Prison Ministry*, 1-10.

Corrections Corporation of Australia, a private operator. This reclaiming was undertaken due to evidence of 'persistent and continuing' contractual defaults. The safety of staff, prisoners, and visitors was not guaranteed due to low staff levels and a lack of experience.

A clear example of inexperience and low staff levels negatively impacting prisoner and prisoner employee safety can be seen in the Parklea prison cell fire on 17th January 2018.²⁵ Allegedly begun by a maximum-security inmate,²⁶ the fire led to the hospitalisation of five staff members and a further 160 people, including both staff members and inmates, were assessed for smoke inhalation. This demonstrates that poor staffing has consequences for the safety of inmates and staff members within Parklea.

5. Standards of Care

Privatisation of prisons has been shown to provide unacceptable outcomes in the management of offenders. Stephen Nathan, a leading prison privatization expert, disclosed in the March 2008 edition of the Independent Monitor that a recently leaked report placed 10 of the 11 private prisons in the UK in the bottom quarter of the performance register of all UK prisons.²⁷ It also showed they were consistently worse than their publicly run equivalents.²⁸ Privatised prisons are incentivised to reduce costs in important services such as medical care, security personnel and programming²⁹ in order to seek maximum returns for their financial investors.³⁰ These cuts threaten the health and safety of prisoners and staff, while benefiting only the interests of these private companies.

The lack of transparency in which Parklea reveals its Key Performance Indicators (KPI) regarding standard of care is of great concern as it enables corruption and other abuses of power to be largely concealed (see 9. Poor Management). Further, the number of cases that arise from low standards of care emphasise the unacceptable outcomes that eventuate from private prisons such as Parklea. A recent inmate suicide case raised urgent questions regarding the low standard of care in Parklea, including how easily the inmate was able to take

²⁵ Marese O'Sullivan, *Five Hospitalised after inmate starts fire inside Parklea prison: Corrective Services* (17 January 2018) SBS News <https://www.sbs.com.au/news/five-hospitalised-after-inmate-starts-fire-inside-parklea-prison-corrective-services>

²⁶ Luke Cooper, *Parklea prison cell fire sparked by inmate setting blanket alight* (17 January 2018) 9 News <<https://www.9news.com.au/national/2018/01/17/14/51/parklea-prison-cell-fire-sparked-by-inmate>>

²⁷ Nathan, S (2008). 'Blind faith in private prisons'. *Independent Mirror*, 24

²⁸ Nathan, S (2008). 'Blind faith in private prisons'. *Independent Mirror*, 24

²⁹ Penter, C (2014). 'The power of the corporate (private) prison industry'. *The Stringer Independent News*. <<http://thestringer.com.au/the-power-of-the-corporate-private-prison-industry-and-why-australia-has-the-highest-proportion-of-private-prisons-in-the-world-7189#.Wn0bWa2B367>>

³⁰ Colin Penter, *The power of the corporate (private) prison industry*, (14 April 2014) The Stringer Independent News <<http://thestringer.com.au/the-power-of-the-corporate-private-prison-industry-and-why-australia-has-the-highest-proportion-of-private-prisons-in-the-world-7189#.WnkamiN95-1>>

his own life without raising the alarm of those entrusted with his care.³¹ The death of this prisoner occurred while he was unnecessarily restrained in shackles. The prison provided a host of inconsistent stories as to why he was restrained and how his injuries were sustained, thus emphasising the lack of transparency and poor standard of care.

6. The Tendency to adhere to Minimum Standards

Corporations will only spend as much as they have to when running prisons. They often do not account for the moral considerations of prisoners' quality of life, which are fundamental for their wellbeing and rehabilitation. A study conducted by Biles and Dalton found that the private prisons Port Phillip, Deer Park, and Arthur Gorrie all have higher rates for all deaths and suicides than the Australian average.³²

Another example of this poor duty of care was observed when Australasian Correctional Management, the private operator of Arthur Gorrie, were caught taking clothes from charities to avoid purchasing them for prisoners. Likewise, they also tried sourcing clothes from the Uniting Church who refused when they realised what was happening after St Vincent de Paul discovered the scam³³.

The same issues could arise if planned prison Grafton Gaol is built and managed by SERCO, another private company. As referred to in a previous report,³⁴ SERCO is an international service company with a history that does not instil confidence. SERCO has been found to be non-compliant with various financial reporting and its UK sector was even indicted for prison overcharging. In New Zealand, SERCO banned the 'Man Up' program for those with addiction, violence, anger, and mental health issues even though the program had successful results. They also had their contract scrapped in New Zealand after the Corrections Department report found organised 'fight clubs' in one of SERCO's prisons. A report about prison management failure under SERCO emphasises the severe issues that have arisen and the impropriety of allowing the privatisation of prisons. These failures consist of two prison escapes two weeks apart, a failure to secure doors, and problems securing handcuff keys and locking devices.³⁵ Such failures should not be overlooked in consideration of whether to privatise Grafton Gaol.

7. Cost-benefit Approach of Prison Business Management

In the corporate world, businesses need to grow to survive. Stephen Nathan of Prison Privatisation Report International, analyses the point that private prisons

³¹ Rigney, S (2017). 'Coronial inquest: Lake Macquarie man takes his own life at Parklea Correctional Centre'. *The Herald*, November 10 2017.

³² Andrew, J & Cahill, D (2008). 'Value for money? neoliberalism in NSW prisons'. *Australian Accounting Review*, 886.

³³ Ibid 891.

³⁴ Justice Action, *Serco Abusive Prisons* (2017) Justice Action
<<http://www.justiceaction.org.au/images/CSNSWResponses/07042017-Serco-Abusive-Prisons.pdf>>

³⁵ *ibid*.

require more people to remain in the criminal justice system for a longer period of time, in order to gain larger profits. The cost-benefit approach prioritises the prison's efficiency over issues of justice, fairness, and legitimacy. The state's criminal justice institutions should not allow mistreatment of prisoners nor misconduct of prison employees, which ultimately go against the interests of the public.³⁶

Yet, the NSW Government still sees the application of the cost-benefit approach of prison business management as a solution for reforming prisons that are unable to meet performance targets.³⁷ In 2016, the NSW Government opened a bid to operate the John Morony Correction Centre in Windsor, calling for tenders from private companies. However, such tenders were allowed to compete with private bids which were "commercial in confidence". The Public Service Association (PSA) argued that this led to a loss of transparency.³⁸ Other criticisms of the NSW Government's call for privatisation of prisons have accused them of "shifting responsibility" and "rewarding their friends in the private sector".³⁹

The effects of privatisation can be compared between Australian and American prison systems. For one, the media has exacerbated the growth of corporate power in the US prison system. The media plays a significant role in shifting public perceptions of the value and function of prison, often employing the language of freedoms and liberties to justify the appalling treatment of those who have abused these rights. A number of prison corporations in the US have been accused of forming alliances with right-wing media channels that disseminate fear into the public sphere. Instilling fear into the community will invariably lead to more validation and support for the expansion of the prison system. A fundamental problem with the US privatised prison system is that it largely ignores prisoner welfare and lacks a genuine consideration for rehabilitation because it stands in direct conflict with the pursuit of corporate interests. There is no incentive for private prisons to rehabilitate prisoners. In the privatised prison realm, potential reoffenders are viewed as security for the attainment of future profits. This should not be the motivation and rationale for the management of prisons. The detriment of private prisons falls on community and the prisoners themselves with the only benefit being conferred on the private companies

8. Financially Viability

The decision by the NSW government to privatize the Parklea and Cessnock prisons was based on a 2005 report of the Legislative Assembly Value for Money

³⁶ Nathan, S (2008). 'Blind faith in private prisons'. *Independent Mirror*, 26.

³⁷ Newcastle Herald, *NSW prisons risk private sector takeover*, (21 March 2016) <<http://www.theherald.com.au/story/3802223/nsw-prisons-risk-private-sector-takeover/>>

³⁸ Public Services Association of NSW, 'Submission to the People's Inquiry into Privatisation', (September 2016).

³⁹ Newcastle Herald, *NSW prisons risk private sector takeover*, (21 March 2016) <<http://www.theherald.com.au/story/3802223/nsw-prisons-risk-private-sector-takeover/>>

from NSW Correctional Centres. A key argument drawn on to support privatization was financial efficacy. It was perceived that 'contestability', which is where the state no longer monopolises the industry and forces both the Government and private sector 'to compete on the grounds of economic efficiencies and service deliveries', will attract the best prison operators and create the most efficient prison system.⁴⁰ This argument, however, was attacked by Jane Andrew of the School of Accounting and Finance, University of Wollongong and Damien Cahill from the University of Sydney, in their paper against the privatisation of prisons. Their paper, 'Value for Money? Neoliberalism in NSW Prisons'⁴¹ concluded that the report is fundamentally flawed on its own terms and is driven by concepts of ideology rather than evidence of financial savings.

The findings of Andrew and Cahill also confirm that the availability and clarity of cost data for private prisons in NSW is poor. The amount that is being paid to Parklea on a yearly basis and the cost of running Parklea are uncertain.⁴² This lack of clarity and transparency is concerning. The foundation upon which the benefits of financial viability is built upon, to be named as being one of the most important drivers of privatisation in New South Wales, appears to be weak both in theory as well as in practical evidence.

9. Poor Management

Widespread allegations of corruption and drug trafficking within Parklea suggest improper regulation and governance of the prison system as a whole. Parklea was the most scrutinised prison in the state in both the 2011-2012 and 2014 Ombudsman's reports. Many investigations into inappropriate conduct by staff members and prisoners are still being carried out.⁴³ In December 2017, a case regarding prison guards smuggling tobacco to an inmate led to the set up of Strike Force Iraga to identify and investigate potentially corrupt behaviour of employees at the Parklea facility.⁴⁴

Yet, not all such cases have been met with justice and resolution. In the same month of 2017, an Indigenous man Eric Whittaker died in Westmead Hospital after being transferred from Parklea Prison. He was allegedly shackled for at least two days "for relatively minor matters ... with no reasonable basis for doing

⁴⁰ Green et. al (2014). 'Privatisation of prisons: key issues'. *Catholic Prison Ministry*, 1-10

⁴¹ Andrew, J & D Cahill (2008). 'Value for money? neoliberalism in NSW prisons'. *Australian Accounting Review*, 3-24.

⁴² Andrew et al (2016). 'Prison Privatisation in Australia: The State of the Nation'. *The University of Sydney Business School*, 20-30.

⁴³ *Ibid.*

⁴⁴ AAP, *Parklea prison guard charged for smuggling tobacco to inmate* (11 December 2017) The New Daily <https://thenewdaily.com.au/news/state/nsw/2017/12/11/parklea-prison-guard/>; Rachel Clun, *Correctional Officer fired after allegedly smuggling tobacco into prison* (11 December 2017) Sydney Morning Herald NSW <<http://www.smh.com.au/nsw/correctional-officer-fired-after-allegedly-smuggling-tobacco-into-prison-20171210-h02ak1.html>>

so”.⁴⁵ Light has yet to be shed on how he came to be restrained and shackled, and of whether injuries suffered in the process might have led to his eventual death; but the inadequacy of staff behaviour in response to such matters is evident.

10. Benchmark Function for Privatisation

Benchmarking aims to use the best entity as the standard by which others must adhere and to strive for improvement through comparison.⁴⁶ The benchmarking of prisons refers to the implementation of budgets and performance targets that must be met. These standards are developed through comparison with other public and private prisons.⁴⁷ The exercise of Benchmarking, as posited by Corrective Services NSW, aims to improve the prison system by increasing accountability, service standards and value for money.

Whilst theoretically of benefit to the prison system, there are issues which arise from the use of private prisons as benchmarks.

First, using private prisons as a benchmark is ineffective in increasing accountability, service standards, and value for money and therefore does not meet the aims presented by Corrective Services NSW. The lack of accountability and the lack of financial viability that arises with private prisons are problems that occur due to the nature of privatising prisons (as discussed above) and thus, cannot be combatted through benchmarking. Privatising the service standards of prisons also comes as a serious threat to prison officers and their livelihood. By changing the standards for which prisons are measured, this would create the opportunity for the exploitation of prison workers – specifically, through reducing wages and undermining the influence of the prison officer’s union. Thus, driving down the cost of running public prisons by the threat of private ones.

Secondly, there is already an international benchmark by which NSW prisons can be assessed. In a factsheet released by Corrective Services NSW, it is stated that performance targets will be outcome-based and similar to those used in New Zealand and the United Kingdom.⁴⁸ This emphasises that, alongside the benchmarking of Australian public prisons, the public prisons of overseas jurisdictions are already available options for alternative points of benchmarking and comparison. These international prisons can be used to assess and improve

⁴⁵ Sarah Hawke, *Family calls for investigation after Eric Whittaker died shackled by his ankles in a Sydney Hospital* (3 December 2017) ABC News <<http://www.abc.net.au/news/2017-12-03/eric-whittakers-family-calls-for-review-of-death-in-custody/9221266>>

⁴⁶ Alex Appleby, ‘A rationale for Benchmarking and Threshold Standards’ in Kogan Page *Benchmarking and Threshold Standards* (1999), 53.

⁴⁷ Corrective Services NSW, *Better Prisons: Performance targets and benchmarking Factsheet #2*, (2016), Corrective Services NSW
<http://www.correctiveservices.justice.nsw.gov.au/Documents/CSNSW%20Fact%20Sheets/better%20prisons/Better_Factsheet_2_Benchmarking_180316_1300_INTERNET_accessible.pdf>

⁴⁸ Corrective Services NSW, *Better Prisons: Performance targets and benchmarking Factsheet #2*, (2016), Corrective Services NSW
<http://www.correctiveservices.justice.nsw.gov.au/Documents/CSNSW%20Fact%20Sheets/better%20prisons/Better_Factsheet_2_Benchmarking_180316_1300_INTERNET_accessible.pdf>

the performance of public prisons instead of continuing to create private prisons which are a detriment to prison staff, prisoners, and society in general.

There is nothing inherent in the private prison system regarding innovation that cannot be seen through international jurisdictions and the public prison system. There are proven mechanisms in evaluating public prisons to each other. These Key Performance Indicators are an established and proven mechanism of evaluation. There is no justification to bring in benchmarking for private prisons that hasn't been proven in the past and nor do they bring anything inherently fresh to the prison system.

Grafton Paper – Serco Abusive Prisons

This paper explores the failures of the privatisation of prisons run by the SERCO, GEO and G4S companies in Australia and other jurisdictions, which add significant weight as factual evidence for the reasons against the privatisation of Parklea highlighted above. The proposed new Grafton prison upon construction will be the largest prison in Australia and will be under the management of the SERCO group. The development of this prison brings into question the history of failures of the company in their management of prisons.

The paper identifies three predominate failures in the track record of these companies' management of prisons in Australia and other jurisdictions. First, there is the issue of non-compliance with financial reporting and a lack of transparency under the *Corporations Act 2001*. Secondly, a failure of prison management leading to security breaches. Thirdly, inhumane treatment with extremely low standards of care. The paper later examines privatisation in NSW comparing the claims private prisons make to how they meet, or fail to meet, these claims in practice. The three claims about recidivism, transparency and performance, and the economical impacts fall short in practice, stressing the detriments of a private prison system due to a direct conflict of interest between the needs of the community and that of a profit making corporation.

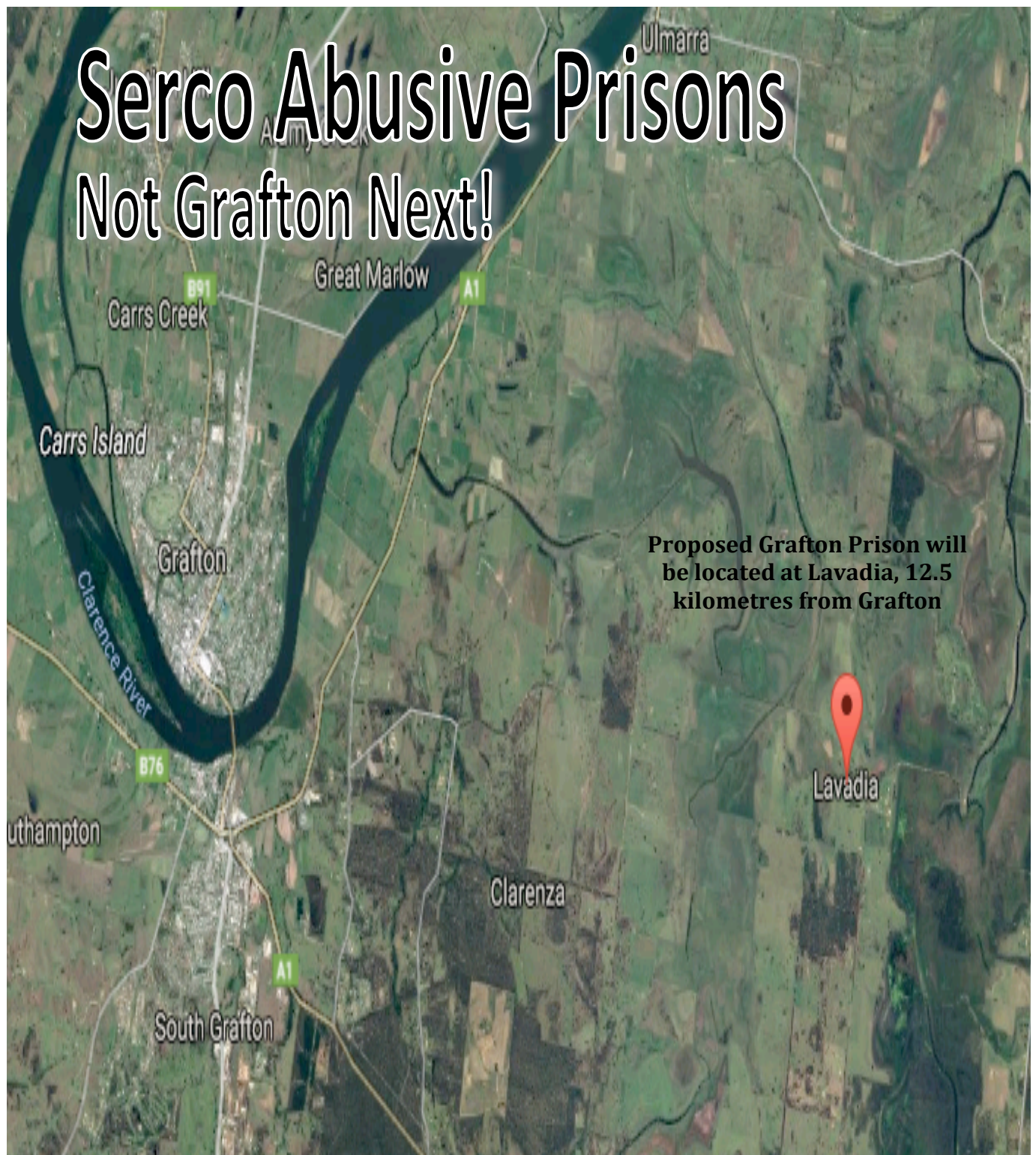
This paper argues, through supporting evidence from Australia, the US and UK and US, the need to move away from the private prison system model in order to provide a better standard of care for prisoners, a focus on rehabilitation, reduction in recidivism and the prevention of misuses of power. Similar arguments can be made for the current situation of Parklea Prison and the failures that have arisen from its operation.

The full Grafton Paper may be found in Appendix A.

Appendix A- Full Grafton Paper “Serco Abusive Prisons: Not Grafton Next!”

Appendix A is a separate PDF, attached as a supplementary file.

Serco Abusive Prisons Not Grafton Next!



**Proposed Grafton Prison will
be located at Lavadia, 12.5
kilometres from Grafton**

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Grafton Prison

Grafton Prison, in its current form is an Intake and Transient Centre that houses 64 inmates.¹ The proposed new Grafton Prison will be a correctional centre that services the northern part of New South Wales, the Queensland border, Kempsey in the southeast and Tamworth in the southwest.² Upon its completion in 2020, it would become the largest prison in Australia. The new complex will accommodate 1,700 inmates – that is, 1,000 males and 300 female’s maximum-security inmates as well as 400 minimum-security male inmates.³

It was announced by the NSW Government in early 2017 that after a competitive tender process, Northern Pathways Consortium was chosen as the preferred bidder in the Public Private Partnership (PPP).⁴ This consortium consists of Serco, Macquarie Capital, John Liang, and John Holland.

The Track Record of Private Prisons

SERCO

Serco is an international service company headquartered in the UK that works with government and public service providers in seven key sectors: Citizen Services, Defence, Facility Services, Health, Immigration, Justice and Transport. This company delivers services to the UK, Europe, North America, the Middle East, New Zealand and Australia.

In Australia, Serco is well known for its prisons located throughout the country. It is involved in the management of Acacia Prison, Wandoo Reintegration Facility, Western Australia Court Security and Custodial Services, and Southern Queensland Correctional Centre in Australia.⁵ In 2017, Serco (as part of the Northern Pathways

¹ <http://www.correctiveservices.justice.nsw.gov.au/Pages/CorrectiveServices/custodial-corrections/table-of-correctional-centres/grafton.aspx>

² <http://www.infrastructure.nsw.gov.au/projects-nsw/ngcc.aspx>

³ David Elliot, 'Have your say on new Grafton prison' (Media Release, 13 August 2016).

⁴ <http://infrastructurepipeline.org/project/new-grafton-correctional-centre/>

⁵ Serco Group Pty Ltd, *Rehabilitating people and protecting the public* (2015) Serco Justice < <http://www.serco-ap.com.au/our-services/sectors/justice/>>.

Consortium) was awarded the contract for the operation of the New Grafton Correctional Centre.⁶

Serco claims to deliver a responsible prisoner model that promotes respect, encourages positive behaviours and allows prisoners to learn and take responsibility for managing their own circumstances.⁷ They directly manage prison accommodation, prisoner mental health services, prisoner transport, and rehabilitation programs. They also aim to reduce recidivism to improve social outcomes and reduce the burden on law enforcements.⁸

Despite these claims, Serco's track record for international prison management has been met with severe criticism. Serco's deviation from its doctrine of prisoner autonomy and rehabilitation in these instances not only questions the reliability of Serco's management of the New Grafton Correctional Centre, but also the broader consequences of prison privatisation.

Non-Compliance With Financial Reporting

Despite identifying itself in 2004 as a reporting entity under the *Corporations Act* 2001,⁹ Serco has failed to disclose business segments, financial instruments, directors' remuneration and related party transactions and balances in its financial reports. In fact, Serco now claims they are not a reporting entity and therefore under no obligation to disclose the above information. This attempt to make the company appear less significant from an accounting point of view comes as Serco's government contract continues to grow, inflating from \$323 million to \$1.86 billion in the last four years alone.

Considering the lobbying Serco has carried out through Peter Costello's lobby group ECG Advisory Services, the failure to disclose 'related party transactions' points to a concerning lack of transparency in the methods behind Serco's acquisition of ever-increasing numbers of government contracts. Accounting expert from the University

⁶ <http://www.abc.net.au/news/2017-03-16/plans-unveiled-for-australias-largest-prison-near-grafton/8360862>

⁷ Serco Group Pty Ltd, Above n, 6

⁹ <https://www.legislation.gov.au/Details/C2004C01177>

of NSW, Jeff Knapp, labels this as a failure that represents the extent to which “financial reporting among Australia's leading proprietary companies has become a shambles”.¹⁰

Prison management

In July 2015, Serco's contract for Auckland's Mt Eden Prison was scrapped after a Corrections Department report found organised ‘fight clubs’ were being held at the facility.¹¹ Prisoners at Mt Eden were also found to be restless and frustrated with the ineffective complaints process prolong delays for accessing property.¹² Further, a New Zealand Qualifications Authority report found that Serco left new Mt Eden employees at risk by providing “patchwork training” to its employees.¹³

In March 2017, Serco banned the ‘Man Up’ program – which supports men with addiction, violence, anger and mental health issues – from Kohuora Auckland Corrections Facility. Many former inmates who had benefited from the program came forward criticising the ban, and a case manager at the Facility resigned in protest. Labour's corrections spokesman Kelvin Davis questioned why the service had been axed without explanation, stating that “if there's a programme that's helping prisoners address their issues and become better people then I'm all for it”.¹⁴

Indictment for prison overcharging – The United Kingdom

In 2013, Serco was forced to repay £68.5m plus VAT (value-added tax) after overcharging on its contract to provide electronic tagging of offenders.¹⁵ The same year, the company agreed to the early termination of its contract for out-of-hours GP services in Cornwall after misrepresenting performance data, failing to meet national standards and having a ‘bullying’ culture.¹⁶

¹⁰ Michael West, ‘What is Serco hiding’, *The Sydney Morning Herald* (online), 7 May 2013 <<http://www.smh.com.au/business/what-is-serco-hiding-20130507-2j4pv.html>>.

¹¹ <http://www.stuff.co.nz/auckland/83088409/Mt-Eden-Serco-fight-clubs-report-fair-and-accurate-High-Court-judge>

¹² <http://www.newstalkzb.co.nz/news/crime/another-serco-run-prison-under-investigation/>

¹³ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11542367

¹⁴ <http://www.stuff.co.nz/national/90853869/Anger-over-Serco-decision-to-ban-Destiny-Church-programme-from-South-Auckland-prison>

¹⁵ <https://www.theguardian.com/business/2013/dec/19/offender-electronic-tagging-serco-repay-68m-overcharging>

¹⁶ <http://www.independent.co.uk/news/uk/politics/exclusive-overcharging-by-outsourcing-giant-serco-costs-nhs-millions-9695342.html>

In 2014, subsidiary Serco Company, Viapath, overcharged NHS hospitals an estimated £1 million in 2012 alone. An NHS commercial manager close to the contract stated that “When you’re taking over a contract of this complexity it’s unreasonable to expect to fix the problem on day one. But the contract was set up on the basis that they had a year to turn things around and get things in proper shape. When they were unable to do it the trust should have ended the contract. They haven’t improved efficiency. Going into a service like this and making it more efficient and ensuring that people are billed properly - that’s where you think the private sector will add value. Serco know the public sector behaves this way and they take advantage. They use the ambiguity and inefficiency of the public sector that they’re meant to be improving on to take advantage of that inherited incompetence.”¹⁷

Prison Management Failures

The privatisation of prison services under Serco significantly failed in performing their duty in transporting prisoners as as a convicted rapist and alleged armed robber escaped from a Serco prison van during their transport duration from Greenough Regional Prison to Perth. This was followed by another prisoner escape from Joondalup Health Campus while under the watch of Serco guards two weeks later. This led WA Prison Officers Union secretary John Welch to comment that the public sector could do a better job at transporting prisoners.¹⁸

Also, the management of facilities within Serco failed to meet the set standards of managing prisons. The Department of Corrective Services issued Serco a “performance improvement request”. It failed to secure doors, including movement and entrance doors in the Acacia Prison. It also faced problems with securing of “handcuff keys and locking devices”. Deficiencies were noted in the following of procedures to ensure all keys and locking devices were kept secure, controlled, monitored and accounted for at all times.¹⁹

Asylum seeker detention centre management

¹⁷ <http://www.independent.co.uk/news/uk/politics/exclusive-overcharging-by-outsourcing-giant-serco-costs-nhs-millions-9695342.html>

¹⁸ <http://www.watoday.com.au/wa-news/wa-escapes-show-serco-privatisation-fails-prison-officers-union-20150615-ghohd7.html>

¹⁹ <http://www.abc.net.au/news/2015-11-12/serco-cops-financial-penalties-over-acacia-handcuff-failures/6933364>

UK

In 2014, Serco and GEO were found to be using detainees in immigration detention centres run by G4S as cheap labour, with some people being paid as little as £1 an hour for domestic service.²⁰

This was not the first time Serco's asylum seeker detention centres were criticised for inhumane treatment, as in February 2010, 84 women detained in Yarl's Wood went on hunger strike in protest at their prolonged detention and inhumane treatment at the hands of SERCO security guards. This protest was broken up in a brutal and inhumane fashion, with 70 women locked in a corridor for up to eight hours without access to food, water, toilet or medical care. Many collapsed and about 20, who tried to climb out of the windows, were beaten up and taken into isolation cells. Four of the women, singled out as "ringleaders", were transferred to Holloway prison in London and held there for months without being charged with any offence or brought before a judge. In July 2010, two detainees in Colnbrook, which is also run by Serco, were found dead in their cells.

Australia

In 2010, a leaked memo by Serco revealed that the company had dismissed similar incidents in Australia, instead accusing detainees of "creating a self-harm culture" and using it as a "bargaining tool". Serco's management of the Christmas Island detention facility has seen detainees placed in a 10-metre-square wire cage for more than 30 hours with no access to shower, toilets or clean clothes.²¹ There have been at least three deaths at the Facility since 2013,²² with 11 suicide attempts being recorded over a 48-hour period in 2014.²³

G4S

The G4S is an integrated security company with a global reach that expands over 110 countries. In Australia and New Zealand, G4S is involved in the delivery of custodial management services for adult and youth justice, police support services, prisoner

²⁰ <https://www.theguardian.com/uk-news/2014/aug/22/immigrants-cheap-labour-detention-centres-g4s-serco>

²¹ <http://www.abc.net.au/news/2015-11-14/christmas-island-detainees-claim-being-treated-like-animals/6941614>

²² <http://artsonline.monash.edu.au/thebordercrossingobservatory/publications/australian-border-deaths-database/>

²³ <https://newmatilda.com/2014/07/09/christmas-island-11-attempt-suicides-48-hours/>

transport, court management, electronic monitoring of offenders and health care services, security services and electronic security systems. It operates in the UK, and it also manages the Port Phillip Prison and Mount Gambier Prison in Australia.²⁴

Indictment for prisoner overcharging in the UK

In 2013, G4S was forced to repay £109m plus VAT for overcharging the Ministry of Justice for the electronic tagging of offenders. The overcharging is believed to include billing for monitoring the movements of 3,000 "phantom" offenders, including some who had been sent back to prison and even some who had died. It is thought that justice ministry officials were being billed for tagging 18,000 a day when only 15,000 were actually being monitored. In particular, the company has been barred from bidding for the next generation of GPS tagging contracts and has withdrawn from the £450m competition taking place later this year to run 70 per cent of the probation service. The shadow justice secretary, Sadiq Khan, said the sum of money involved showed the true scale of the wrongdoing that went on: "However, it is a fraction of the amount of money the company gets in various multi-million pound contracts with the public sector. This, in addition to its poor performance on a number of other contracts, has led to huge damage to the public's confidence in our criminal justice system."²⁵

Prison management: Comparing the UK to Australia

Australia

In 2009, the West Australian coroner found that G4S had contributed to the "wholly unnecessary and avoidable" death of a 46-year-old Aboriginal man Ian Ward, who died of heat stress during a 360-kilometre journey in the back of a G4S custody van in January 2008.²⁶ The cause of the heat stress was faulty air-conditioning: G4S had received multiple warnings from the Inspector of Custodial Services about the likelihood of such a malfunction but had failed to act on them.²⁷ The West Australian

²⁴ <http://www.au.g4s.com/>

²⁵ <https://www.theguardian.com/business/2014/mar/12/g4s-repay-overcharging-tagging-contracts>

²⁶ http://www.abc.net.au/4corners/special_ed/20090615/ward/ward_finding.pdf

²⁷ <http://rightnow.org.au/opinion-3/private-prisons-in-australia-our-20-year-trial/>

coroner found Mr Ward's case highlighted "some of the dangers associated with the privatisation of services" when the state cannot delegate its duty of care to a citizen²⁸.

In July 2009, the coroner also found that G4S had contributed to the 2005 death of Ian Westcott, who died of an asthma attack in the G4S-run Port Phillip prison due to the failure of staff to replace a 20-cent telephone pin²⁹. A note found near his body read: "Asthma attack. buzzed for help. no response." In 2000, a coroner found G4S had failed to provide a safe environment at Port Phillip when four men hanged themselves in 1997. A 2006 report by the Victorian Ombudsman and the Office of Police Integrity also found inadequacies in the way prisoners were transported, with insufficient attention paid to their conditions, including "basic amenities for long trips". Prisoners' Legal Service advocate Charandev Singh said: "There are serious questions about the company's fitness to be operating any prisoner transport in the light of the repeated records of serious human rights abuses of people in their custody and care."³⁰

UK

It has been asserted that private prisons function on a scheme of profit-maximisation and thus endorses increases in overcrowding. However, overcrowding is not only detrimental to rehabilitation of prisoners, it also provides an unsafe environment for them. In 2015, six G4S prison staff at a Kent child jail were charged with misconduct in public office following a BBC programme which uncovered staff misreporting incidents to avoid fines for G4S. Also, using unnecessary force and foul language to frighten and intimidate young inmates, and attempting to conceal their behaviour by ensuring they were beneath CCTV cameras or uncovered areas³¹. The Ministry of Justice subsequently took over operation of the jail.³² A March 2017 report found that levels of violence at the last G4S-run child jail have been "very high" and the number of times staff have used force has doubled in the past year, with the inspectors

²⁸ http://www.abc.net.au/4corners/special_ed/20090615/ward/ward_finding.pdf

²⁹ <http://www.theage.com.au/victoria/cry-in-a-dark-prison-cell-echoes-in-a-failed-system-20110528-1f9u3.html#ixzz1nidxbnlz>

³⁰ <http://www.smh.com.au/national/uproar-over-new-prison-contract-20091003-ghbp.html>

³¹ <http://www.bbc.com/news/uk-england-kent-35290582>

³² <http://www.independent.co.uk/voices/g4s-immigration-removal-centres-detention-tinsley-house-not-fit-for-the-job-a7573916.html>

attributing this to the facility's lack of an effective or consistent approach to managing young people's behaviour.³³

In 2010, an Angolan man died while being removed from the UK by G4S. In 2013 an inquest jury at Isleworth Crown Court returned a nine-to-one verdict finding that Mubenga had been 'unlawfully killed', although three G4S guards were subsequently found not guilty of manslaughter. Investigations into the death reported racist text messages circulating amongst colleagues on two of the guards' mobile phones.³⁴

"G4S has been responsible for countless human rights violations, and the mistreatment and even unlawful killing of people in their care" said Bella Sankey, director of policy for human rights organisation Liberty.³⁵

Asylum seeker detention centre management

The London-based security giant had a \$244.5 million contract from the Australian government to run the Manus Island camp ("operational and maintenance services").

³⁶ It lost the contract a few months ago and will formally handover to Transfield in early March. G4S was in charge of the camp when Berati died, and has defended its staff and promised to co-operate with the government's investigation.³⁷

Employee mistreatment

In 2015, G4S ceased its operations in Yemen, leaving 208 security guards without compensation or any notification of the move. Following a judicial procedure before the Labour Arbitration Commission of Sana'a, the Yemeni capital, the two companies were ordered in December 2015 to pay the workers' wages and other rights until the termination of their contracts. The court decision was wilfully ignored by G4S.³⁸

³³ <https://www.theguardian.com/business/2017/mar/07/high-levels-of-violence-and-use-of-force-at-last-g4s-run-child-jail-report-finds>

³⁴ <http://www.independent.co.uk/voices/g4s-immigration-removal-centres-detention-tinsley-house-not-fit-for-the-job-a7573916.html>

³⁵ <https://www.theguardian.com/society/2016/sep/29/g4s-equality-helpline-contract-raises-serious-concern-high-court-told>

³⁶ <https://www.tenders.gov.au/?event=public.cn.view&CNUUID=5CDC5474-DC41-8318-8DD2F5A5317284AA>

³⁷ <https://www.crikey.com.au/2014/02/25/meet-the-companies-that-run-our-immigration-detention-camps/>

³⁸ <https://www.thedailyvox.co.za/workers-and-their-families-left-to-starve-in-yemen-by-multinational-companies-cedric-gerome/>

Prison Privatisation in Australia

Australia now has more people in prison than at any point in its history. As of June 2016, 37,456 people were incarcerated across eight jurisdictions.³⁹

In Australia, corrective services operated 112 custodial facilities nationally at 30 June 2016, comprising 86 government-operated prisons, nine privately-operated prisons, four transitional centres, one periodic detention centre (ACT), and twelve 24-hour court cell complexes (holding prisoners under the responsibility of corrective services in NSW).⁴⁰

Private prisons now incarcerate 18.5 per cent of the prison population of Australia.⁴¹ Out of a total of 112 prisons in Australia, private contractors operate nine facilities in five different states: two prisons in Queensland, two in New South Wales, one in South Australia, two in Victoria and two in Western Australia.⁴²

In Australia, the government funds private companies a daily rate per inmate to cover investment, operating costs and profit under the scheme of Public-Private Partnership (PPP). Under this rate, private companies supply many or most of the service needed to operate a prison system. This includes guards, staff, food, program costs, partial medical care, and other services. Furthermore, private companies may also build new facilities without direct tax expenditures or public bonds. This gives these private companies substantial power to manage profit margin balances.

³⁹ <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/justice/corrective-services/rogs-2017-volume8-chapter8.pdf>

⁴⁰ <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/justice/corrective-services/rogs-2017-volume8-chapter8.pdf> Productivity Commission, 2017.

⁴¹ Productivity Commission 2014

⁴² Jane Andrew et al, Above n 4. 1.

The push for prison privatisation is not a new one, in fact, the campaign for ‘deinstitutionalisation’ in the 1960’s and 1970’s bears striking resemblance to current developments in prison management.

Privatisation in NSW

Current Situation and Proposed Changes

Overview

Prison privatisation in New South Wales is a government policy involving contracting out the operation of a prison facility, prison design, construction and finance⁴³ whilst remaining a public sector responsibility.⁴⁴ A private prison in the context of NSW is therefore a government or privately owned prison managed under contract by a private sector organisation.⁴⁵

Whilst the privatisation of prisons is considered a response to address prison population matters, in particular the overcrowding of inmates and excessive costs, many academics and international governments have concluded that this does not lead to increased benefits in prisoner welfare. Private prisons in Australia take the easy prisoners who require less expenditure and will pay the best, bringing to light the question as to whether private prisons really serve the interests of the community. Additionally, there is no sufficient evidence to support claims in favour of privatisations of prisons in Australia, due to the lack of available public information.

⁴⁶

In New South Wales, there are 47 correctional facilities as of 30 June 2016, which consists of 2 privately operated prisons, 31 government-operated prisons, 2 transitional centers and 12 twenty-four-hour court cell complexes. Among 12, 305 people held in prisons in 2016, 14.5% of them were housed in privately operated facilities.⁴⁷ In 2016, the NSW Government announced that two more private prisons

⁴³ Lenny Roth, ‘Privatisation of Prisons’ (Research Paper No 3/04, Parliamentary Library, NSW Parliament, 2004) 2.

⁴⁴ Parliament of Australia, ‘Private Prisons in Australia’ Parl Paper No 36 (1992) 2.

⁴⁵ Productivity Commission, Parliament of NSW, *Corrective Services* (2017) 8.27.

⁴⁶ Jane Andrew et al, ‘*Prison Privatisation in Australia*’ (2016) The University of Sydney Business School, 4 <https://sydney.edu.au/business/_data/assets/pdf_file/0008/269972/Prison_Privatisation_in_Australia-The_State_of_the_Nation_June_2016.pdf>.

⁴⁷ <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/justice/corrective-services/rogs-2017-volume8-chapter8.pdf> Productivity Commission, 2017.

would begin to operate in the state, with the construction of the New Grafton Correctional Centre and the privatisation of the John Morony Correctional Facility. Additionally, a policy of putting prisons that did not reduce re-offending rates to tender was announced.⁴⁸

John Morony Correctional Facility

The government is undertaking tenders in order to privatise John Morony Prison. The call for tenders closed on 19 May 2016 and the preferred tenderer is going to be announced in mid-2017. The market testing of John Morony forms a key part of the New South Wales Government's Better Prisons reform program, which will see a \$3.8 billion expansion of the prison system, as well as the benchmarking of prisons to meet performance targets.

John Morony Correctional Complex, in its current form, is a hybrid correctional facility containing both maximum and minimum-security prison complexes for both males and females located in Berkshire Park, 5 kilometres south of Windsor in New South Wales, Australia. This Complex is operated by Corrective Services NSW, an agency of the Department of the Attorney General and Justice, of the Government of New South Wales.⁴⁹

Specifically, the Complex houses the John Morony Correctional Centre, a medium-security correctional centre for remand and sentenced male offenders, the Outer Metropolitan Multi Purpose Correctional Centre, a minimum-security correctional centre for men, and the minimum/medium-security correctional centre for women.⁵⁰

The Government is seeking to enter into a Management Agreement with a public (CSNSW was also invited to tender) or private operator for:⁵¹

- Accommodation and Custodial Services;
- Program and Industries;

⁴⁸ <http://www.abc.net.au/news/2016-03-20/nsw-jails-private-prison-operators-ohn-morony-windsor/7261300>

⁴⁹ https://en.wikipedia.org/wiki/John_Morony_Correctional_Complex

⁵⁰ <http://www.correctiveservices.justice.nsw.gov.au/Pages/CorrectiveServices/custodial-corrections/table-of-correctional-centres/john-morony.aspx>

⁵¹ <http://infrastructurepipeline.org/project/operations-of-john-morony-correctional-centre/>

- Health Services;
- Transport and Escort Services (to and from funerals, healthcare facilities and other approved releases; and
- Facilities and Asset Management.

What is Market Testing?

Market Testing is one of the Better Prisons programs to improve standards, reduce reoffending and provide the taxpayers with better value for money. It occurs when the Government decides to invite the private and public sectors to compete for the right to operate a prison.⁵²

JMCC Market Testing

JMCC has been selected for market testing for a number of reasons, including confidence that it has a reasonable prospect of making a competitive in-house bid, and the availability of some other CSNSW employment nearby, if positions are lost due to streamlining of operations or transfer of operations to a private operator.

However, undergoing market testing will affect services including custodial, industries, Offender services and programs, administration and Justice Health. Moreover, if the in-house bid is unsuccessful and a private provider takes over management of the centre, staff could be offered position by the company or they could lose their role at the centre. Thus, privatisation and Market Testing can result in job losses. Correctional Services New South Wales (CSNSW) have already cut the number of teaching positions from 152 to 20, with plans to outsource to private companies where a teaching degree is not required for the position.⁵³

⁵²

http://www.correctiveservices.justice.nsw.gov.au/Documents/CSNSW%20Fact%20Sheets/better%20prisons/Better_Factsheet_3_Market-testing_180316_1300_INTERNET_accessible.pdf

⁵³ <http://www.abc.net.au/news/2016-10-08/petition-urges-nsw-government-to-reverse-cuts-to-prison-teachers/7915140>

Privatisation in NSW

Claims vs. Realities

With regards to the proposed ‘private-public partnership’ to build Grafton jail, we have concern regarding accountability on two levels:⁵⁴

1. External accountability, which concerns the transparency of interactions between the government and prisons. These include the terms of the contracts between the parties, as well as performance levels with respect to KPIs. It is important that these transactions are made public, where this increases both stakeholders’ accountability for their actions.
2. Internal accountability, which reflects private facilities⁵⁵ being held accountable to the government. This is largely in terms of key performance indicators (KPIs), and whether reported figures are true or falsified.

We have reason to believe that the Grafton Prison Proposal will have limited external accountability, as it is a ‘public-private-partnership’ (PPP). This means that the government will retain ownership of the prison, whilst the day-to-day operations are outsourced to the consortium. Notably, the nature of this arrangement is problematic and ultimately unclear in terms of monetary division. Admittedly, we are aware of the value of the contract, between the consortium and the Berejikilian government, is AUD 2.6bn. However, other than this, there is minimal disclosure from either stakeholder.

Further, the disclosure of spending and results of prison services, provided by the private sector, would be a breach of commercial-in-confidence agreements: Government Information (Public Access) Act 2009 (NSW) s 32 (1) (a). Further, there is no need to disclose unsuccessful tenders for the Grafton prison: Government Information (Public Access) Act 2009 (NSW) s 32 (1) (b). This prevents public scrutiny of the PPP and therefore places into question the level of accountability private facilities are held to, by the government.

The internal accountability for the Grafton project is indeterminable. However, by examining the two other privatised prisons in New South Wales,⁵⁶ it is apparent that there is a positive correlation between privatised prison and the public’s access to information.

⁵⁴ Usyd Business Paper

⁵⁵ This is run by a consortium consisting of Serco, Macquarie Capital, John Liang and John Hollands.

⁵⁶ Junee and Parklea

Moreover, as there is minimal transparency (for further information see: Public Accounts Committee and General Purpose Committee Inquiry) we must carefully consider the claims made by proponents of a private prison system in order to determine their validity.

Issues in the NSW prison system

The constant increase in the number of prisoners detained has led to inquiries in the operation of the NSW prison system and the issue of privatisation. The number of adult prisoners increased by 7 per cent between 2015 and 2016, with the NSW prisoner population being the largest of any state and territory. The adult imprisonment rate was 211 prisoners per 100,000 people in 2016, up from 200 in 2015, according to the ABS. Aboriginal and Torres Strait Islander prisoners comprised 24 per cent of the adult prisoner population. Over half of all prisoners (52 per cent) had previously served time.⁵⁷

Further, the offender to staff ratio has declined rapidly in the past decade; having fallen from 22.0 in 2006-2007 and 17.4 in 2015-2016.⁵⁸ And, NSW Prisons were at 120 per cent capacity in 2015-16, the highest overcrowding rate in Australia.⁵⁹ This indicates that whilst the prison populations were increasing in size, the number of staff to manage them was reducing. Possibly as a consequence of this, prisoner-on-prisoner assault rates were also the highest in Australia, at 23.68 per 100 prisoners – this is an increase of 10 percentage points from 2006.

Claim 1 – Privatisation Reduces Recidivism

The State Government has suggested that the privatisation of Grafton Prison will result in an increased focus on rehabilitation programs aiming to reduce recidivism, however, the Public Services Association's Steve McMahon has cast doubt as to whether private funding will actually achieve this.⁶⁰ He suggests that profit motivations may distract companies from investing the much-needed resources aimed at curbing recidivism. The incentive to cut costs and steer away from expensive

⁵⁷ <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2016~Main%20Features~New%20South%20Wales~18>

⁵⁸ <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/justice/corrective-services/rogs-2017-volume8-chapter8.pdf>

⁵⁹ <http://www.pc.gov.au/research/ongoing/report-on-government-services/2017/justice/corrective-services/rogs-2017-volume8-chapter8.pdf>

⁶⁰ <https://www.sunshinecoastdaily.com.au/news/grafton-jail-to-house-1700-prisoners/3046173/>

programs may negatively impact re-offending rates.⁶¹ Further, under the contracts usually signed by private consortiums involved in the operation of correctional facilities, there are financial penalties for breaches of safety e.g. riots, suicides, assaults etc. The notification of these breaches is done by prison staff who are aware of the system of financial penalty, meaning that there is a tendency not to notify the state of these breaches. This suggests that reducing recidivism is not the main priority of private facilities.

Claim 2 – Privatisation Increases Transparency and Performance Levels

Further problems can be seen with this process of privatisation in the example of the Junee Correctional Facility. Key Performance Indicators (KPI) are used to ensure that prisons reach their performance targets, with performance level fees being awarded as incentives. However, despite not reaching their targets in 2006, GEO was still awarded its bonuses for target maintenance for the privately managed Junee Correctional Centre.⁶² The contracts for the Junee Correctional Centre were made publicly available in March 2016, however the KPI's and PLF's were censored. Thus, the lack of transparency in private facilities has meant that even if targets are not met level in regards to service and performance in the privately managed centre there are no consequences.

Public objectives vs. Private incentives

The incentives of private prison companies can easily become opposed to the aims of the humane containment and rehabilitation of prisoners – the very purposes of corrective services. The objectives of CSNSW are to “provide a safe, secure and humane custodial environment” and “program interventions to reduce the risk of re-offending” are in conflict with profit imperative of private business.⁶³

In 2008, Victorian Ombudsman George Brouwer's annual report stated that when decision-making is moved from the public to the private arena, “the promotion of private interests and the corruption of proper administration tend to result.”⁶⁴

⁶¹ <https://www.northernstar.com.au/news/psa-warns-private-sector-secrecy-grafton-jail/2916902/>

⁶² <https://independentaustralia.net/politics/politics-display/private-prisons-tisa-and-the-human-services-privatisation-creep,9970>

⁶³ <http://rightnow.org.au/opinion-3/private-prisons-in-australia-our-20-year-trial/>

⁶⁴ <https://www.ombudsman.vic.gov.au/Reports-Publications/Annual-Reports?year=2008#content-area>

Summarising his concerns about the public/private sector interface, Mr Brouwer concluded:

“It is the greater interaction between the two sectors, as well as the mobility of management between them, that poses special challenges in relation to conflict of interest issues ... and confusion about the ethical standards required. The interchange of personnel between the public and private sectors has also contributed to a degree of breakdown in traditional public sector employment cultures and attendant obligations.”

The Ombudsman’s first example of this is private organisations that provide prison and correctional services. Deputy Ombudsman John Taylor has also noted the “disproportionately high” increases in complaints received about private prisons in the previous two years up to 2008, expressing concern for the erosion of rights.⁶⁵

Further, the 2013 report completed by The Sentencing Project suggested that private prisons perform no better than publicly operated facilities, as they are not guaranteed to reduce correctional costs to governments, but instead provide an incentive for increasing correctional populations.⁶⁶ It is therefore highly doubtful that profit-driven private enterprises will address the high prison overcrowding and prisoner population rates in NSW.

Cost savings

It is an inherent value of private markets to function on a cost lowering mechanisms. When cost lowering methods compete with improved rehabilitation facilities, friction is bound to occur. One will lose out, and in most cases of prison privatisation, it is rehabilitation that suffers. Examples can be found under *Claim 3*.

Claim 3 – Privatisation Boosts Local Economy and Creates Jobs

In justifying this joint government and private enterprise, the Minister for Corrections David Elliott has claimed that this prison will significantly boost the number of jobs in the region. He purported that this project will supposedly create long-term, local

⁶⁵ <http://www.theage.com.au/national/private-prisons-complaints-soar-20080910-4dvh.html>

⁶⁶ Cody Mason, 'International Growth Trends in Prison Privatisation' (2013) *The Sentencing Project*.

economic opportunities through the injection of \$560 million into the local economy and the creation of 600 operational jobs. The new centre will be responsible for remand, reception and placement for specified offender groups.

Whilst Corrections Minister David Elliot markets the construction of Grafton Correctional Centre as a local job creator, the daily management of the centre is likely to result in a comparative decrease in staffing levels. The pressure to increase profits in private enterprises can distract management from overall prisoner welfare. For example, prior to privatisation over 100 officers ran Parklea Corrections Centre. Currently, 60 to 80 officers, despite an increase in inmate population, run the Centre. Understaffing issues at Grafton Prison are likely to lead to further concerns with the Prison Officers' Union. Previous complaints by the Union following the 2004 inmate escape at Junee Correctional Centre under private management suggested that the incident was directly linked to understaffing.⁶⁷

Articles Outlining Public Dissatisfaction with these Private Prison Proposals:

- <http://www.news.com.au/national/crime/outrage-over-australias-new-mega-jail/news-story/1b75b7aebae45619f6fc526c65a855e>
- <https://www.dailyexaminer.com.au/news/prison-teachers-fight-to-keep-jobs/3090330/>

⁶⁷ http://sydney.edu.au/business/_data/assets/pdf_file/0008/269972/Prison_Privatisation_in_Australia-The_State_of_the_Nation_June_2016.pdf

Prison Privatisation in the United States of America

The United States was the first country to introduce private prisons. This policy of privatising emerged as a response to the significant growth in the number of prisoners, leading to overcrowding as a result of the robust law and order policies seen throughout the 1980's. Therefore, the privatisation of prisons was seen as an attractive alternative, in which the private sector could build prisons in an efficient and cheaper way.⁶⁸

In August 2016, the US Deputy Attorney-General Sally Yates issued a memorandum stating that the US Department of Justice would “begin the process of reducing- and ultimately ending- the use of private prisons”. The memorandum stated that whilst “private prisons served an important role” “they compare poorly to our own facilities. They simply do not provide the same level of correctional services, programs, and resources.” The memo continued to say that private prisons do not substantially reduce costs, nor do they provide services, which are essential to reducing recidivism.⁶⁹

The memo marks a significant departure from the trend towards prison privatisation in the United States, probably as a result of the significant (800 per cent) increase in the incarceration rate. Between 1999 and 2014, inmates in privately-run institutions increased by 90 per cent.⁷⁰

At the centre of controversy surrounding the US model of prison privatisation is the formula that US Governments use for payment to private prison contractors. This frequently entails that the government pays private providers a fixed amount per incarcerated person, with the company deriving its profit margin from cost cutting.

This has proved problematic within the broader context of the US Institutions of government. The adoptive model effectively entails that the correctional industry derives significant benefit from an ever-increasing number of incarcerated individuals. This acts as a counter to the broader social objectives of a reduction in

⁶⁸ <https://www.parliament.nsw.gov.au/researchpapers/Documents/privatisation-of-prisons/bg03-04.pdf>

⁶⁹ <https://www.justice.gov/archives/opa/blog/phasing-out-our-use-private-prisons>
<https://www.justice.gov/archives/opa/file/886311/download>

⁷⁰ <http://www.newyorker.com/news/news-desk/why-the-u-s-is-right-to-move-away-from-private-prisons>

recidivism. More insidiously, the large and increasing role of private campaign contributions in US policymaking appears to be playing out with a possible link between campaign contributions from private prison operators and retribution-focused public policy. A report by the Justice Policy Institute found that private prison operators in the United States were currently earning 3.3 billion in annual revenue, with 10 million being spent on campaign contributions, and 25 million on lobbying since 1989.⁷¹ Most significantly, the report found that policy initiatives such as California's 'three strike' law, and Arizona's controversial SB1070 Immigration law, had been covertly supported by the private prison operators, which stood to gain financially from an increase in the incarcerated population.⁷²

As a result, the experience of the United States with the existing pay-per-inmate model of privatisation has not worked to significantly reduce rates of recidivism, nor has it reduced other core objectives of the system of incarceration, such as cost, with Sally Yates citing a 15 per cent increase in the cost of incarceration in private institutions. However, the overall rate of crime in the United States has fallen significantly since 1980. Though, the egregiously high rate of incarceration, combined with a significant decline in the conditions of prison, does not seem to be comparable to a comparatively small reduction in the crime rate.⁷³

⁷¹http://www.justicepolicy.org/uploads/justicepolicy/documents/gaming_the_system.pdf

⁷² https://www.washingtonpost.com/posteverything/wp/2015/04/28/how-for-profit-prisons-have-become-the-biggest-lobby-no-one-is-talking-about/?utm_term=.bd740dbbcee0

⁷³ <http://www.economist.com/blogs/economist-explains/2013/08/economist-explains-8>
<http://www.economist.com/node/16636027>

Prison Privatisation in the United Kingdom

The United Kingdom has seen over a 90 per cent increase in its prison population between 1990 and 2015. The numbers have gone from 25 to 182 prisoners per 100,000 head of the population in England and Wales since World War II until now. Not unlike the US, prison population increase has been largely attributed to the proliferation of ‘tough on crime’ legislations since 1994.⁷⁴ In addition to this, the tendency to pass out “indeterminate” life sentences saw a rise since June 2002, which in turn led to an even more detrimental effect to the already overcrowded prisons in the United Kingdom.⁷⁵ Inevitably, this has led to the rise of privatised prisons in hopes of reducing the burdensome cost needed to support the considerable population of incarcerated people. Report data has shown that the United Kingdom is the country with the most private prisons in Europe.⁷⁶

⁷⁴ Grahame Allen and Noel Dempsey, “Prison Population Statistics” (House of Commons Library, July 2016). Briefing paper number SN/SG/0434

⁷⁵ UK Government, “Story of the Prison Population: 1993-2016 England and Wales”, Ministry of Justice. July 2016.

⁷⁶ Yvonne Jewkes and Dominique Moran, “Britain’s New ‘Model’ Prison Is Disturbingly Violent, And Its Design Could Be To Blame”, February 2014, Business Insider, Law & Order.

Evaluation of Prison Privatisation Models

An overwhelming trend in western nations towards an increasing prison population, coupled with fiscal and economic pressures, has led countries such as the United States and the United Kingdom to shift the operation of prisons to private contractors. More broadly, these issues surrounding the privatisation of prisons are pertinent in Australia as a large percentage of prisoners are held in private facilities.⁷⁷ With the emergence of private prisons in NSW, it is of vital importance for policymakers and community at large to carefully examine the shortcomings of privatisation and the potential models available for implementation.

Considering the evidential proof of operational failures, misuse of power, and focus on profit-maximisation instead of rehabilitation, questions must be asked as to the suitability of the operation of private prisons in Australia. If these violations have taken place in the past, there is no guarantee that the standards of facilities, education, and rehabilitation programs under a system of penalties will be any different in the future. Looking specifically at the Serco, it is clear that the profit imperatives of the company interfered with their commitment to reducing recidivism.

⁷⁷ <http://sentencingproject.org/wp-content/uploads/2015/12/International-Growth-Trends-in-Prison-Privatisation.pdf>

Appendix B- Terms of Reference for Parklea Inquiry

Terms of Reference

That Portfolio Committee No.4 – Legal Affairs inquire into and report on the current operations of Parklea Correctional Centre, and in particular:

- a) The adequacy of staffing levels and staff safety,
- b) The inflow of contraband,
- c) The security at the facility, including access to goal keys,
- d) Corporate governance of the GEO Group and the facility,
- e) Any possible contraventions of the contract between the NSW Government and the GEO Group,
- f) Rapid-Build dormitory prisons,
- g) The benchmarking of prisons in NSW and,
- h) Any other related matter.

Committee Membership

The Hon Robert Borsak MLC Shooters, Fishers and Farmers Part (*Chair*)

Mr David Shoebridge MLC The Greens (*Deputy Chair*)

The David Clarke MLC Liberal Party

The Hon Scott Farlow MLC** Liberal Party

The Hon Trevor Khan MLC The Nationals

The Hon Adam Searle MLC* Australian Labor Party

The Hon Lynda Voltz MLC Australian Labor Party

Appendix C- Privatisation of Prisons Paper 2016

With NSW prisons overcrowding at a record high, the debate about the privatisation of prisons has resurfaced. NSW Prison population numbers have reached over 11, 300 and NSW prisons are not equipped to deal with numbers this high. As of March 2014, there were eight privately run prisons in Australia, two of which are in New South Wales (Green et. al 2014). These centres are Junee and Parklea Correctional Centres. In 2009, the NSW government announced that the GEO Group Inc. [would take over Parklea Correctional Centre](#). Some advocate that privatization aids in solving prison overcrowding and results in a more cost efficient management of prisons (Martha & Frank, 2012).

See the Inspector's Report on "Full House – the growth of the inmate populations in NSW" here: <http://www.justiceaction.org.au/prisons/prison-issues/inspectors-report-on-overcrowding-in-nsw-prisons>

A. Reasons Against Privatisation

The privatisation of Parklea Correctional Centre [was opposed in 2009](#) and our stance has not changed. Drawing upon the experience across Australia, as well as in the United States, England, New Zealand we see an abundance of reasons to strongly oppose privatization.

1. Morally wrong system

Privatisation is a fundamental attack on the democratic social compact between citizen and state. The use of coercion is monopolised by the state and cannot be delegated to private enterprise. Prison management is not 'mere administrative or routine tasks' it necessarily 'involves the exercise of coercion' (Brown 2008, p.105). Privatisation, by transferring this power, is a move from the Penal Colony to the Corporate Colony resulting in a loss of accountability and the assignment of judicial power to corporations. There is an inherent indecency in the concept of corporations making money from the misery of others. Prisoners are human beings, not chattels to generate profits for shareholders.

For a history and analysis of Australian prison privatization: Jane Andrew in the Journal "[Critical Perspectives on Accounting](#)" Dec 2007.

2. Increase in incarceration

Another critique put forward by Harding (2002, p. 20) is that the existence of such a program propelled the tendency to produce more incarceration policies. He made this assertion while citing the most notable previous example of privatization, which was at the Sydney city Mission Wilderness program, which was operated at Tallong, NSW for about one year until 1985 (Harding 2002,

p.21). To be viable, it ideally needed about 40 youths participating at each of the four stages of the year-long program. As 40 "graduated" from stage 4, another 40 should be entering at stage 1 (Harding 2002, p.21)

In America, CCA and GEO Group have had a hand in shaping and pushing for criminal justice policies such as mandatory minimum sentences that favour increased incarceration. In the past, they have supported laws like California's three-strikes law, and policies aimed at continuing the War on Drugs (In the Public Interest 2013).

Lawmakers need to advance policies that protect their bottom line and keep pro-privatization lawmakers in office. The Centre for Responsive Politics reports that CCA spent \$17.4 million in lobbying expenditures from 2002 through to 2012, while GEO Group spent \$2.5 million from 2004 to 2012 (In the Public Interest 2013). There is a risk that similar political behaviour could be engaged in by private prisons in Australia to maintain and increase incarceration rates to ensure a future source of revenue.

3. No transparency

There is concern that private contractors would not be subject to the same degree of scrutiny as public operators, in the absence of direct chains of accountability. There is a lack of incentives for privately run prisons to report incidents. Private prisons receive funding from the government on a bonus and penalty basis. Bonuses can be reduced for riots and deaths in custody, and penalties can be imposed for erroneous discharges, assaults and prisoner drug use, amongst other things. As such, there is a tendency towards covering up incidents in private prison facilities that could threaten performance bonuses worth up to \$500 000 a year.

See 2005 Report: Campaign against Prison Privatisation in Australia Briefing
<http://www.justiceaction.org.au/images/stories/CmpgnPDFs/geoinfo51009.pdf>

This practice of covering up unfavourable information is also relevant in the means by which private prisons deal with employees. In one instance, when an officer breached their obligations, they were not taken care of appropriately. Rather, they were just told to resign from their positions, so that the private contractors did not attract media attention. This means the issue is not made public and the prison operators are not held accountable. This ensures that awareness would not undermine private enterprises' continued receipt of publicly funded monetary benefits. (From Submission of Bart Birch etc., on Corrections (Contract Management of Prisons) Amendment Bill – pg. 4).

Private enterprises are also less accountable to the public. Whilst they may be required to report to government as part of funding contracts, there is no

requirement to report to the public and are protected by “commercial in confidence” clauses (Green et. al 2014). They also distance themselves from government by sub-contracting (Green et. al 2014).

4. Lack of concern for prisoners and staff welfare

In New Zealand there are large amounts of work conducted by casual employees under the private contractor. Due to their casual position, they did not work as frequently or consistently, meaning they were inexperienced, not trained well, and did not know the operations of the prison (From Submission of Bart Birch etc., on Corrections (Contract Management of Prisons) Amendment Bill – pg. 5)

In a US prison, staff turnover was found to be rampant, leaving inexperienced guards to manage a tough population (Kirkham 2013).

Green et. al (2014) highlights that the ‘profit imperative’ arguably creates tension ‘between profits and the responsibility of corrections to effectively rehabilitate prisoners and support their re-entry into the community’. This drive for profit materialized when the Victorian Government reclaimed the Metropolitan Women’s Correctional Centre from the private operator, Corrections Corporation of Australia, due to ‘persistent and continuing’ contractual defaults as the safety of staff, prisoners and visitors were not guaranteed, and there was a lack of staff experience.

5. Low standards of care

Privatisation of prisons has been shown to provide unacceptable outcomes in the management of offenders. Stephen Nathan (2008, p.24), a leading prison privatization expert, disclosed, in the March 2008 edition of the Independent Monitor, that a recently leaked report placed 10 of the 11 private prisons in the UK in the bottom quarter of the performance register of all UK prisons and showed they are consistently worse than their publicly run equivalents.

Nathan’s Full Article here:

<http://www.justiceaction.org.au/images/stories/CmpgnPDFs/privmonitormarch08.pdf>

6. Tendency to adhere to minimum standards

Corporations, generally motivated by profit, will only spend as much as they have to when running prisons. That means they will not have the necessary regard to moral considerations of human decency, which are important in a prison system. A study conducted by Biles and Dalton found that Port Phillip prison, Deer Park and Arthur Gorrie all have higher rates for all deaths and suicides than the Australian average (Andrew p. 886).

ACM was caught taking clothes from charities to avoid purchasing them for prisoners, until St Vincent de Paul discovered the scam. Then they tried sourcing clothes from the Uniting Church who refused when they realised what was happening. (Andrew p 891)

7. The business of prison management not in public interest

In the corporate world, business needs to grow to survive. Stephen Nathan says that this means privatizing prisons requires more people in the criminal justice system for longer to profit. This is squarely at odds with the public good (Nathan 2008, p 26).

In the US it has led to prison corporations being accused of joining with and funding right wing media shock jocks to ramp up the law and order debate so that they can have more people jailed to grow their profits. The more frightened the public is, the more they will pay.

8. Financially unviable

A key argument drawn on to support privatization is financial efficacy as it is perceived that 'contestability', where the state no longer monopolises the industry, forces both the Government and private sector 'to compete on the grounds of economic efficiencies and service deliveries' (Green et. al, 2014). The decision by the NSW government to privatize the Parklea and Cessnock prisons was based on a [2005 report of the Legislative Assembly Value for Money from NSW Correctional Centres](#).

Jane Andrew of the School of Accounting and Finance, University of Wollongong and Daniel Cahill from the University of Sydney attacked the reports that concluded that the privatized model of prison management delivered superior value for money. Their paper, ['Value for Money? Neoliberalism in NSW Prisons'](#) (2008, p. 3, 24) concluded that the report is fundamentally flawed on its own terms and is driven by concepts of ideology rather than, say, evidence of financial savings.

Interestingly, the paper attacks the report from an economic perspective (since they are both accountants) rather than a moral perspective, which we believe has just as much authority.

B. Papers on Privatisation

The following papers detail the adverse effects due to the privatisation of prisons:

Mason, C. (2013). '[International Growth Trends in Prison Privatisation](#)'. *Research and advocacy for reform*

U.S. Department of Justice, '[Emerging Issues on Privatised Prisons](#)' (2001).

C. Potential Benefits of Privatisation?

1. A solution for overcrowding

In the UK and the US, the growth of private prisons has been a result of overcrowding. (Roth 2004) There are also arguments that under the private sector, construction is more efficient and cheaper. However, these ideals became less clear-cut (Harding 1992 p 12).

2. Inclusion of Rehabilitative Measures

Due to private funding, it is more viable for a variety of rehabilitative measures to be included into the prison curriculum. However, prison officers who worked under GEO in New Zealand could not recall any inclusion of rehabilitative measures (From Submission of Bart Birch etc., on Corrections (Contract Management of Prisons) Amendment Bill – pg. 2).

Corrections chief executive Ray Smith says the proposed restructure is about improving rehabilitation, while shifting away from older facilities. He says that the “really important thing here is that we’ve got to turn around the recidivism rate that we’ve got in New Zealand” (Henry 2015).

3. Positive effects in Queensland’s penal system

Molly Mahlouzarides in “Private Prisons, Public Fears” (2012) notes that operation and management practices of the public sector have been enhanced by the introduction of private prisons to the field of corrective services. However, in order for private providers to be accountable, there would need to be vigilant supervision, appropriate monitoring and proper funding (Mahlouzarides 2012, p.5).

Appendix D- Index of Relevant Media Articles

The public exposure of Parklea is evident in the relevant media articles attached below.

- 1: 'Gangster prison fight-clubs:Inmates told 'fight to death''
- 2: 'Privately run Parklea prison faces penalties'
- 3: 'ABC News: NSW Corrective Services Commissioner appalled by Parklea Prison contraband video'
- 4: 'Five staff members from Parklea Correctional Centre in Sydney have been hospitalised after an inmate started a fire inside his cell, according to Corrective Services NSW'
- 5: 'Parklea prison cell fire sparked by inmate setting a blanket alight'
- 6: 'Parklea prison guard charged for smuggling tobacco to inmate'
- 7: 'Correctional Officer fired after allegedly smuggling tobacco into prison'
- 8: 'Family calls for investigation after Eric Whittaker died shackled by his ankles in a Sydney hospital bed'
- 9: 'Coronial inquest: Lake Macquarie man takes his own life at Parklea Correctional Centre'
- 10: 'Union welcomes inquiry into scandal ridden Parklea private prison'

1: Gangster prison fight-clubs: Inmates told 'fight to death'⁴⁹

10th Jul 2017 3:13 PM

By Janet Fife-Yeomans, Miles Godfrey, The Daily Telegraph

An "appalled" prisons commissioner is sending in an elite team to take over the privately run Parklea Correctional Centre if necessary in the wake of the YouTube security scandal.

Commissioner Peter Severin said this was the first time this action had been taken at any jail in NSW.

A governor from the public sector will lead the team and have the power to veto decisions.

He said that when he met with bosses of the GEO Group, which runs the jail, this morning they were very apologetic.

He revealed that the video made on a mobile phone was probably recorded in August last year when the two inmates were in the same maximum-security cell.

One has since been patrolled but the other, who is now in a different jail, also had his new cell searched over the weekend after the video was uploaded to YouTube.

"This is a very serious matter," Commissioner Severin said.

"I have just met with GEO and told them I am sending in a public sector governor to lead a review of the centre.

"The governor will lead a team that will oversee all major decisions made by GEO management and also review practices there."

He said he was appalled when the video was brought to his attention late on Friday.

WEEKLY prison fight clubs and self-filmed vision of a prisoner showing off a knife and ice were proof private-run prisons were 'breeding crime,' a union claimed today.

The prison service went into meltdown today after the shocking footage emerged - with prisons boss Peter Severin ordering crisis talks to try and work out how the maximum security prisoner managed to get hold of such deadly weapons inside Parklea jail.

To make matters worse, it is believed Corrective Services Minister David Elliott is away on holiday, leaving the government floundering as it tries to grapple with the scandal.

Private prison operators have a history of security problems around the world including in New Zealand where prisoners held weekly fight clubs.

⁴⁹Janet Fife-Yeomans and Miles Godfrey, *Gangster prison fight club: Inmates told to 'Fight to death'*, (10 July 2017) NewsMail <<https://www.news-mail.com.au/news/gangster-prison-fight-clubs-inmates-told-fight-dea/3198743/>>

Serco, which is part of the consortium, which has won the bid to run the new prison to be built outside Grafton, lost its contract to run at Mt Eden jail in Auckland after footage emerged of the gang-run clubs, which encouraged some people to fight to the death.

As well as the weekend's debacle where a maximum-security inmate at Parklea Correctional Centre filmed himself with drugs and weapons on a mobile phone inside his cell, it shows that private companies should not be running the state's jails, Public Service Association general secretary Stewart Little said today.

"The only way we find out about these issues is by inmates filming themselves - what sort of system is that?" Mr Little said.

"There is no transparency or accountability in private prisons.

"No private company should be profiting from crime.

"These poorly managed, under resourced prisons are just incubators for worse problems that are later unleashed back into society.

"Society can't afford to privatise prisons."

He said that successful correctional facilities in Nowra, Cessnock, Kempsey and Wellington proved that if governments invested the money, they would get results.

Serco is one of the companies behind the Northern Pathways Consortium, which has been chosen by the Berejikilan Government to run a new privately operated Grafton prison.

Serco tried to block the release of the official report into the Mt Eden fiasco but was overruled by the New Zealand High Court.

It led to the government taking control of Mt Eden again.

Sydney's Parklea jail is run by another private operator, GEO Group, which has still not commented.

The company is so secretive it will not reveal who its media spokesperson is but said they would "call back".

The Daily Telegraph online is still waiting.

2: Privately run Parklea prison faces penalties ⁵⁰

The Australian
12:00AM July 11, 2017

⁵⁰Sam Buckingham Jones, *Privately Run Parklea Prison Faces Penalties* (11 July 2017), The Australian <<https://www.theaustralian.com.au/national-affairs/state-politics/privately-run-parklea-prison-faces-penalties/news-story/f1dcb779697ba91eebb278af13998940>>

The NSW government will intervene in the operations of Parklea Correctional Centre — the state's largest privately run prison — and may pursue penalties for the operator after an inmate posted online a video allegedly flaunting a knife and his stash of drugs.

Corrective Services officials are investigating a "very serious breach of security" after the video, shot on an illegally obtained phone by a man claiming to be a prisoner, was uploaded to YouTube last month.

The inmate is seen brandishing a knife, a makeshift weapon dubbed a "slasher", and a substance he says is the drug ice.

He says he is filming on a phone smuggled in by guards.

A public sector governor will be sent in to Parklea, currently run by private contractor GEO Group Australia, to review "all major decisions" made by staff. He will report back in four weeks.

"This is a very serious matter," Corrective Services commissioner Peter Severin said yesterday. "The governor will lead a team that will oversee all major decisions made by GEO management and also review practices there."

NSW Corrections Minister David Elliott, who has been on annual leave, said in a statement the department would review its contract with GEO Group.

"I was horrified when I saw the YouTube video and immediately called for an investigation," he said.

"I have asked Corrective Services NSW to review the contract to see what penalties could be imposed if there has been a failure by the operator."

The NSW opposition said an explosion in the number of prisoners has not been matched by resources, with potentially deadly consequences. The number of people in the state's prisons has increased from 10,000 in 2011 to an unprecedented 13,055 in March this year.

"We are talking about people who are amongst the most dangerous persons in this country," Opposition Leader Luke Foley said.

Parklea Correctional Centre is one of two privately run prisons in NSW. In the video, discovered by authorities last week, the man uses the "slasher" to cut the wall of his cell as an example of "what it can do to your throat" and says the jail is ruining lives.

"It is killing the young people, the young generation of this place is dead set terrorising," he said. "Why have I got a mobile phone? It's because screws bring mobile phones into jail for money."

The footage has prompted calls for more government funding for the state's prison sector.

"This is a result of a failure by the government to adequately invest in the back end of the justice system," Public Services Association general secretary Stewart Little said.

An earlier version of this story incorrectly stated that the number of prisoners in NSW was currently 40,577, up from 25,968 a decade ago. The Australian Bureau of Statistics figures quoted were the number of people in prisons Australia-wide. There are currently 13,055 people in prisons in NSW.

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3: ABC News: NSW Corrective Services Commissioner appalled by Parklea Prison contraband video⁵¹

July 10 2017
Ben Worsley

The New South Wales Corrective Services Commissioner says he was appalled when he saw a [video filmed by an inmate at Parklea Prison](#), who claimed guards were smuggling in contraband.

An investigation has been launched by the NSW Government in response to the release of a video, which was uploaded to YouTube from inside the walls of the facility in Sydney's northwest.

The video appears to show an inmate holding a knife and what he says is the drug ice, allegedly taken into the prison by guards.

The Corrective Services Commissioner, Peter Severin, said a team from his department would oversee the running of the private prison for the next month while the investigation was carried out.

"This team will not take over the management of the day to day operations, but it will be there to not only assist but also clearly provide me with the assurance that I need as the commissioner that this facility is operating safely," he said.

NSW Police Minister Troy Grant said the Government would continue working to stamp out illegal behaviour in corrective facilities.

"Corrective services has invested a lot of money and a lot of strategies to try and curb different methodologies and different ways that contraband is introduced into jails and or illegal activity occurs — are they going to get it right all the time no, is it frustrating absolutely, is it acceptable no way," he said.

'It's a dead-set joke'

⁵¹ Ben Worsley, *NSW Corrective Services Commissioner appalled by Parklea Prison contraband video* (10 July 2017) ABC News <<http://www.abc.net.au/news/2017-07-10/parklea-prison-contraband-video-appals-commissioner/8694542>>

The man filming the video claims contraband is being brought into the jail by security guards in exchange for money.

"On a day-to-day basis this place is a dead-set joke, it's a dead-set joke," the inmate says.

"Right now, I've got a mobile phone. Why have I got a mobile phone? Because screws are bringing mobile phones into the jail for money."

He then shows the camera a knife, a "slasher" and a part off a TV that could "rip skin".

General secretary of the Public Service Association Stewart Little said it was an indictment on how privately run prisons operate in NSW.

However, Commissioner Severin did not agree.

"If anybody on the staff is found to have breached the regulations, to have acted corruptly, or in any way inappropriately, that will be dealt with under the full force of the law," he said.

"For me, it is not about an issue, public versus private, it's an issue about the integrity of our operations."

Opposition Leader Luke Foley said there was a crisis inside the state's prison system.

"Our prisons are awash with dangerous weapons, hard drugs, mobile phones, this isn't funny, it's scary," he said.

"In Goulburn Supermax for example, 44 mobile phones were discovered in the first quarter of this year.

"The most hardened terrorists in the state, free to sit there on mobile phones planning God knows what."

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4: Five staff members from Parklea Correctional Centre in Sydney have been hospitalised after an inmate started a fire inside his cell, according to Corrective Services NSW⁵²

Updated 17 January
By Marese O'Sullivan

⁵² Marese O'Sullivan, *Five Hospitalised after inmate starts fire inside Parklea prison: Corrective Services* (17 January 2018) SBS News <https://www.sbs.com.au/news/five-hospitalised-after-inmate-starts-fire-inside-parklea-prison-corrective-services>

A 28-year-old man allegedly set fire to a blanket inside his cell in the maximum-security section of the prison, according to a Corrective Services NSW spokeswoman.

At about 12.30pm on Wednesday, officers extinguish the fire and the inmate was put in segregation.

Staff and inmates are being checked for smoke inhalation.

Five staff members were taken to hospital by ambulance as a precautionary measure.

An investigation is being launched into the incident

5: Parklea prison cell fire sparked by inmate setting a blanket alight⁵³

3:04pm Jan 17, 2018

Parklea prison cell fire leaves 160 people suffering smoke inhalation

Inmates and staff members at the Parklea Correctional Centre were assessed by paramedics today after an inmate ignited a fire inside one of the prison's cells.

Around 12.30pm, security staff at the centre found the cell of a 28-year-old inmate on fire in the maximum-security section of the centre according to a statement from a Corrective Services NSW spokeswoman.

"Officers extinguished a fire in the cell of a 28-year-old inmate after he allegedly set a blanket alight," the spokeswoman said.

The blaze was quickly extinguished, however 160 people including both inmates and staff required assessment for smoke inhalation from NSW Ambulance officers.

While it is understood no one was seriously injured in the incident, two staff members suffering smoke inhalation were also taken to hospital for further assessment.

The inmate believed to be responsible for the fire has been placed in segregation and the incident will be investigated by Corrective Services NSW.

⁵³ Luke Cooper, *Parklea prison cell fire sparked by inmate setting blanket alight* (17 January 2018) 9 News <<https://www.9news.com.au/national/2018/01/17/14/51/parklea-prison-cell-fire-sparked-by-inmate>>

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6: Parklea prison guard charged for smuggling tobacco to inmate⁵⁴

3:03pm, Dec 11, 2017

A prison guard allegedly caught smuggling tobacco to an inmate at Parklea prison is the latest scandal to plague the privately run jail, prompting calls for the facility to come back under state government control.

The 40-year-old female guard was nabbed at the prison on Sunday after allegedly supplying the drug to an inmate in exchange for cash, NSW Police said on Monday.

The woman was sacked and will appear in Blacktown Local Court on January 29 to face corruption charges.

Opposition spokesman Guy Zangari on Monday said it was clear Parklea, which is run by independent operator GEO Group Australia, should no longer be privately run.

With the contract to run the prison set to expire, Mr Zangari said it was an “opportune” time for Corrections Minister David Elliot to “save face” and for the government to take control of the prison.

Expressions of interest for a seven-year contract with a new operator have recently closed with GEO’s contract set to expire in March 2019.

“Over the past year, Parklea prison has been mired in controversy ... lost keys, assaults, inmates on social media, contraband finds and deaths in custody,” he said in a statement.

A parliamentary inquiry was launched last month into Parklea jail following the widespread allegations of corruption and drug trafficking.

The inquiry comes after a video was published online in July showing an inmate at Parklea jail boasting about having a blade, the drug ice and a mobile phone.

The inmate, Carl Walton, at the time described the security arrangements at the privately run facility as “a dead-set joke” and alleged guards were involved in the mobile phone smuggling.

⁵⁴ AAP, *Parklea prison guard charged for smuggling tobacco to inmate* (11 December 2017) The New Daily <<https://thenewdaily.com.au/news/state/nsw/2017/12/11/parklea-prison-guard/>>

The video prompted a series of contraband stings in Parklea and other NSW prisons in recent months.

More than 620 people were busted trying to smuggle contraband into the state's prisons in the first nine months of this year with an 11-week contraband sting launched by the state government in August.

-AAP

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7: Correctional officer fired after allegedly smuggling tobacco into prison⁵⁵

December 11 2017

A correctional officer has been charged with corruption after an inmate allegedly paid her to smuggle tobacco into a prison in western Sydney.

The 40-year-old officer allegedly supplied tobacco to the inmate at a correctional facility in Parklea just before 11am on Sunday.

Officers from the Corrective Services Investigation Unit's Strike Force Iraga searched the inmate and seized tobacco.

The woman was arrested shortly after and taken to Riverstone police station.

She was charged with two counts each of introducing contraband to a correctional centre and an agent corruptly receiving a benefit.

Immediately dismissed from her job, the woman was granted strict conditional bail and is due to appear at Blacktown Local Court on January 29.

Strike Force Iraga had been set up to identify and investigate potentially corrupt behaviour of employees at the Parklea facility.

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8: Family calls for investigation after Eric Whittaker died shackled by his ankles in a Sydney hospital bed⁵⁶

⁵⁵ Rachel Clun, *Correctional Officer fired after allegedly smuggling tobacco into prison* (11 December 2017) Sydney Morning Herald NSW <<http://www.smh.com.au/nsw/correctional-officer-fired-after-allegedly-smuggling-tobacco-into-prison-20171210-h02ak1.html>>

⁵⁶ Sarah Hawke, *Family calls for investigation after Eric Whittaker died shackled by his ankles in a Sydney Hospital* (3 December 2017) ABC News <<http://www.abc.net.au/news/2017-12-03/eric-whittakers-family-calls-for-review-of-death-in-custody/9221266>>

By Sarah Hawke
3 Dec 2017, 10:28pm

The family of an Indigenous man and father of five who died in custody, shackled in a hospital bed in Sydney, are calling for an independent investigation into his death.

Eric Whittaker, 35, from Walgett died five months ago in Westmead Hospital after being transferred from Parklea Prison.

Mr Whittaker's family have released photos of him unconscious in a hospital bed with cuffs around his ankles the day before his life support was turned off.

"It appears he was shackled for at least two days and he was shackled after he was brain dead," the family's lawyer Stewart Levitt said.

Mr Levitt said that unnecessary restraint could be considered assault in New South Wales law.

"To restrain somebody with shackles in circumstances where there's no reasonable basis for doing so — because when you're comatose you can't get up and run away."

Mr Whittaker had been arrested for several offences, including allegedly breaching parole conditions, and transferred to the privately operated Parklea Prison on Friday, June 30, 2017.

He was taken to hospital on the Sunday and died two days later.

Sparse details of prisoner's condition

Mr Levitt alleged there were inconsistent stories as to why Mr Whittaker ended up in hospital, with some reports he fell in an exercise yard, another in his cell.

"He was taken into custody, and not withstanding that he was only there for relatively minor matters, he was put in isolation, handcuffed in a maximum security cell," Mr Levitt said.

"How he then came to be restrained, how his legs came to be shackled and to be transported to the sick bay at Parklea [Prison] is a manner which remains to be seen, and what injuries he might have suffered in that process has also not been the subject of any report," Mr Levitt said.

The family only have a death certificate saying he died of an aneurism, Mr Levitt told the ABC.

"The circumstances that led up to that aneurism are something that remain to be discovered."

Human Rights Commission complaint to be lodged

Corrective Services NSW did not respond to the ABC's questions directly about Mr Whittaker's death, although it did say a report was being finalised by the department.

In a statement it said every death in custody is thoroughly reviewed by the department and the NSW Coroners Court and may result in a change in procedures.

The department said there were also strict protocols for the use of restraints which took into consideration the likelihood of a breach of safety and security, including an attempted escape.

It added, should medical treatment require both handcuffs and ankle cuffs to be removed, adequate security measures must be in place.

Mr Levitt says he and the family would be lodging a complaint with the Human Rights Commission.

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9: Coronial inquest: Lake Macquarie man takes his own life at Parklea Correctional Centre⁵⁷

SAM RIGNEY

November 10 2017 - 2:00PM

A CORNER has recommended Parklea Correctional Centre remove all “hanging points” after a Lake Macquarie man died by suicide in his cell in 2014.

The inmate, who can only be referred to as P, was found dead in his cell at 3.15pm on February 25, 2014, a few hours after a distressing phone call to his partner, during which he threatened to take his own life and said he “couldn’t deal with it”, according to findings published on Friday.

A coronial inquest held in Glebe Coroner’s Court last month explored a number of significant issues relating to P’s death, including whether he should have been considered a suicide risk upon entry into the prison and what steps were still necessary to remove or reduce the risk of inmates taking their own lives.

P, who was 42 at the time of his death and grew up in Toronto, appeared in Newcastle Local Court on February 14, 2014, charged with a number of property

⁵⁷ Sam Rigney, *Coronial inquest: Lake Macquarie man takes his own life at Parklea correctional centre* (10 November 2017) Newcastle Herald
<<http://www.theherald.com.au/story/5048542/coroner-calls-for-prison-to-remove-risk/>>

offences. He was granted bail, but was unable to meet one of the conditions and remained in custody.

He was moved to cells at another courthouse and then a correctional centre before being transferred to Parklea Correctional Centre on February 20, 2014.

Upon arrival, P told a registered nurse he had no history of mental health issues, self-harm or suicide.

But after a distressing phone call to his partner at 12.40pm on February 25, 2014, P went back to his cell and ended his own life.

Deputy State Coroner Magistrate Harriet Grahame found P's death was self-inflicted, but found correctional staff could not have known his intentions.

"P's death was unforeseen by those entrusted with his care," Ms Grahame said.

"I accept that his decision to take his own life was sudden and unexpected.

"Sitting alone in his cell, ruminating on the breakdown of his relationship appears to have caused him profound despair."

Ms Grahame said had P not been able to take his own life "so easily", he may have survived until he was released back into the common area later that day.

"P is not the only prisoner to have died in these circumstances," Ms Grahame said. "Urgent action must be taken to improve conditions at Parklea and elsewhere."

Ms Grahame recommended urgent funding be provided to redesign the cells at Parklea Correctional Centre, which is privately operated by GEO Group.

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10: Union welcomes inquiry into scandal ridden Parklea private prison⁵⁸

PSA Media release Nov 23, 2017

The Public Service Association (PSA) has welcomed today's announcement of a Parliamentary Inquiry into the scandal ridden Parklea private prison.

The union has been calling for an inquiry into Parklea for sometime and this week backed a push by Opposition Leader Luke Foley for Parliament to formally investigate the prison's operations.

⁵⁸ PSA, *Union welcomes inquiry into scandal ridden Parklea private prison* (23 November 2017) PSA <<http://psa.asn.au/union-welcomes-inquiry-into-scandal-ridden-parklea-private-prison/>>

The inquiry announcement follows reports of further damning incidents including allegations of improper conduct by senior management towards junior staff.

“An inquiry into the management of Parklea Prison is long overdue,” said PSA General Secretary, Stewart Little, “and we welcome today’s announcement and thank Luke Foley for his support.”

“Parklea appears to be a law unto itself – the law of the jungle – and its operation shrouded in secrecy. Already this year there’s been scandalous incidents around weapons, drugs and a serious assault on a Prison Officer who was only saved from a life threatening wound by his name badge.”

“There is no transparency or accountability in private prisons – that’s the whole idea.

“The Government must return Parklea to the public prison system.”

“Society can’t afford to privatise prisons.”

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