Supplementary Submission No **30a**

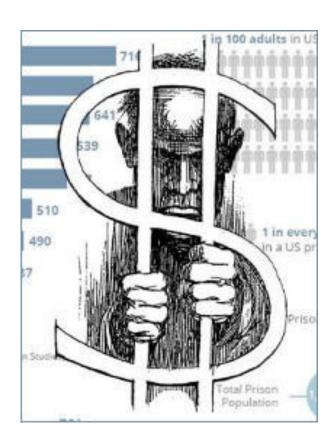
INQUIRY INTO PARKLEA CORRECTIONAL CENTRE AND OTHER OPERATIONAL ISSUES

Organisation: Community Justice Coalition

Date Received: 14 March 2018



PARKLEA UPPER HOUSE INQUIRY



Community Justice Coalition
<u>info@communityjusticecoalition.org</u>
<u>http://www.communityjusticecoalition.org/</u>
P.O. Box 345, Broadway, NSW 2007 Australia

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Executive Summary

This paper explores the evident organisational and structural inadequacies of the privately owned Parklea Prison. Parklea Prison, known for its many recent scandals, illustrates the many unavoidable truths of the long and short-term effects of prison privatisation.

Several failures in the track record of Parklea Prison and the inability of private prisons to rectify mistakes can be identified in its operation and management. This paper outlines the ethically and morally questionable treatment of prisoners in Parklea Prison and identifies the key inadequacies and lack of accountability associated with private prisons such as: 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 staff tendency to adhere to minimum standards in private prisons due to the costbenefit approach of such private corporations.

The focus of this paper addresses Terms of Reference (f) the appropriateness and operation of private prisons in New South Wales. This submission argues, through supporting evidence from media and government enquiries, that private prisons are not sustainable in the long-term and impact negatively on those living or working in them. The violations and poor track record of private prisons bring into question the future sustainability of these prisons and give rise to an obvious need to move away from privatisation if the focus is on reducing the misuse of power, better treatment and the rehabilitation of prisoners.

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

Prison privatisation refers to the transfer of ownership and management of Correction Centres and Prisons from Government control to private sector actors. The privatisation model links profit margins to numbers of prisoners managed because it heavily depends on the influx of prisoners to increase profits there are incentives to encourage higher rates of incarceration. A recent rise in transferring publicly owned prisons in Australia to private enterprises has correlated with the highest incarceration rates in history.² Giving private actors control of prison management creates issues regarding prison welfare, including questions of facility deregulation and of whether corporate profit is prioritised over prisoner wellbeing.

¹ See Appendix B.

² Australian Bureau of Statistics, 2015.

The Community Justice Coalition unequivocally believes that higher rates of incarceration are not in the public interest, and that 'solving' issues such as overcrowding and resource constraints through the privatisation of prisons is unsustainable and largely counterproductive. Prison structures, which were traditionally state institutions aimed at protecting the public good, 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 private prison systems. Parklea – along with Junee Correctional Centre, the second of the two privately operated prisons in NSW – incarcerate 15.8% of the total population of inmates, accounting for 1,604 prisoners out of 10,477.³ 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 required in public prisons. Further, the management of private prisons must be as transparent and accountable as their public counterparts. However, as this submission will discuss, there are many issues with privatisation that suggest that this is not the case.

The appropriateness and operations of Parklea have come under serious scrutiny following various incidents that demonstrate the failure of management and the poor environment in which the prisoners live. One example of this arose following a video posted by a former inmate in July 2017, revealing a cell laden with contraband he claimed was brought in by guards. Further investigations have also been conducted after the stabbing of a guard and fires being started in maximum-security, leaving questions about illegal behaviour by staff and prisoners. 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." This ultimately led to a review by Corrective Services Commissioner Peter Severin, who met with GEO Group management on the 10th of July 2017 to discuss security and safety concerns. Even with these clear issues, the steps towards improvement are still insufficient.

³ Productivity Commission, 2015.

⁴ 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

⁵ 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>.

⁶ 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

⁷ 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

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 that 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.⁸

With the information obtained from the terms of reference, listed for the Parliamentary Inquiry into Parklea and issues raised by the media, this submission will raise many concerns that come with the privatisation of prisons.

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⁸ Justice Action, *Prison Privatisation* (2017) Justice Action

http://www.justiceaction.org.au/prisons/prison-issues/privatisation>.

Reasons Against Privatisation

The Community Justice Coalition has opposed the privatisation of Parklea Correctional Centre since 2009 and our stance has not changed. Drawing upon experiences across Australia, as well as in the United States, England and New Zealand, we see an abundance of reasons to strongly oppose privatisation. These reasons will be discussed in detail below in the following submission.

1. Coercive detention is a prime public responsibility

Private corporations have a duty to make a profit 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. These societal needs are not provided by private industries. Prison management is unlike any other public sector where control is not merely through routine, but often involves the use of coercion⁹. 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. There is pressure on private companies to cut costs and work out economic improvements, which is in direct conflict with the nature of a prison to manage costs appropriately to care for the welfare and security of prisoners.

2. Privatisation may undermine respect for human rights

Though deprived of freedom when incarcerated, prisoners remain entitled to enjoy basic human rights. Australia has struggled to achieve the implementation of these rights for prisoners. The privatisation of prisons will undermine the effective realisation of prisoners rights and will contribute to this country's poor human rights record. Since the implementation of the private system, deaths in custody and incarceration rates have risen higher than any point in Australian history. ¹⁰

3. Privatisation may encourage an increase in incarceration

The continuing creation and existence of a privatised prison system encourages the production of incarceration policies designed to keep prisons fully occupied.¹¹ This assertion can be illustrated by the most notable example of prison privatisation, which operated at Tallong, NSW, for about one year until 1985.¹² 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 had to enter the program at stage 1.¹³ This shifts the

⁹ Brown, A. (2008). 'Economic aspects of prison privatization: the Queensland experience'. *The issues corrections*, 105.

¹⁰ Australian Bureau of Statistics, 2015.

 $^{^{11}}$ Richard Harding, 'Prison Privatisation in Australia: A Glimpse of the Future' (1992-1993) 41 $\it Journal$ of the Institute of Criminology 9, 20-21.

¹² Ibid.

¹³ Ibid.

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. This should not be the rationale behind incarceration.

The link between privatisation and the increase in incarceration is further illustrated through a look into the US prison system. According to the American 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 which companies use political behaviour to maintain and increase incarceration rates in order to ensure a future source of revenue. In the United States, CCA and GEO Groups 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.¹⁴ 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 2012.¹⁵ This indicates that private prison companies wield a disproportionate level of influence on laws and political opinion regarding incarceration. In retrospect, these mandatory prison sentences, actively supported by companies, involve a denial of justice incompatible with welfare of the accused individual.

4. Lack of accountability and transparency

There is rising concern that private contractors are not 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. Because of the loss of income which may result, 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

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 $^{^{14}}$ In the Public Interest (2013). Criminal: how lockup quotas and 'low-crime taxes' guarantee profits for private prison corporations.

¹⁵ Ibid.

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 the issue from public scrutiny, allowing private enterprises to continually reap publicly funded benefits without being held appropriately accountable. 16

Contracts between the government and Parklea prison are moreover not publicly available.¹⁷ 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. 18 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 towards Corrective Services NSW and the general public. An example of this occurred with the 2016 bid opened by the NSW Government 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.¹⁹ 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".²⁰

Privatised prisons also distance themselves from government overwatch by subcontracting work out to outside agencies. 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.

5. Inadequate staffing levels and safety issues

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

¹⁶ From Submission of Bart Birch et al. on *Corrections (Contract Management of Prisons)* Amendment Bill, 4.

¹⁷ Andrew et al (2016). 'Prison Privatisation in Australia: The State of the Nation'. *The University of Sydney Business School*, 20-30.

¹⁸ Green et. al (2014). 'Privatisation of prisons: key issues'. Catholic Prison Ministry, 1-10.

¹⁹ Public Services Association of NSW, 'Submission to the People's Inquiry into Privatisation', (Septmber 2016).

 $^{^{20}}$ Newcastle Herald, NSW prisons risk private sector takeover, (21 March 2016) < http://www.theherald.com.au/story/3802223/nsw-prisons-risk-private-sector-takeover/> 21 lbid.

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

A clear example of how inexperience and low staff levels negatively impact prisoner and prisoner employee safety can be seen in the Parklea prison cell fire on 17th January 2018.²⁴ Allegedly begun by a maximum-security inmate,²⁵ the fire led to the hospitalisation of five staff members; a further 160 people, including both staff members and inmates, were assessed for smoke inhalation. This demonstrates that poor staffing creates huge consequences for the safety of inmates and staff members within Parklea.

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". ²⁶ This drive for profit materialized when the Victorian Government reclaimed the Metropolitan Women's Correctional Centre from the 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.

6. Low 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

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 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

²⁵ 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

²⁶ Green et. al (2014). 'Privatisation of prisons: key issues'. Catholic Prison Ministry, 1-10.

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

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

personnel and programming, 29 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 of Parklea in reporting on 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 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.

7. Standards will not rise above minimum

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 observance of the duty of care occurred when Australasian Correctional Management, the private operator of Arthur Gorrie, was 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 the planned prison at Grafton is built and managed by SERCO, another private company. As referred to in a previous report,³⁴ SERCO

²⁹ Penter, C (2014). 'The power of the corporate (private) prison industry'. *The Stringer* Independent News.

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-prisonindustry-and-why-australia-has-the-highest-proportion-of-private-prisons-in-the-world-7189#.WnkamiN95-1>

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

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 requirements, 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.

8. Cost-benefit approach of prison business management

In the corporate world, businesses need to grow to survive. Stephen Nathan, of Prison Privatisation Report International, raises concerns arising from the fact that private prisons operate on the need for more people to remain in the criminal justice system for a longer period of time, in order to gain larger profits. This cost-benefit approach prioritises the prison's profitability over issues of justice, fairness, and legitimacy; ultimately making it a principally and practically flawed approach.

Yet, the NSW Government still sees the application of the cost-benefit approach to prison business management as a solution for reforming prisons that are unable to meet performance targets, such as in the case of the privatisation bid of the John Morony Correction Centre in Windsor, in 2016.³⁶

The effects of such 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 in 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 these objectives are 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 is totally incompatible with the

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³⁶ Newcastle Herald, *NSW prisons risk private sector takeover*, (21 March 2016) < http://www.theherald.com.au/story/3802223/nsw-prisons-risk-private-sector-takeover/>

internationally recognised motivation and rationale for the management of prisons. The negative effects of private prisons fall on community and the prisoners themselves with the only benefit being conferred on the private companies

9. Financially unviable

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. 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.³⁷ 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. Their paper 'Value for Money? Neoliberalism in NSW Prisons'³⁸ 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.³⁹ This lack of clarity and transparency is concerning. The foundation upon which the benefits of financial viability is promoted, as 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.

10. 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.⁴⁰ 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.⁴¹

³⁷ Green et. al (2014). 'Privatisation of prisons: key issues'. Catholic Prison Ministry, 1-10

³⁸ Andrew, J & D Cahill (2008). 'Value for money? neoliberalism in NSW prisons'. *Australian Accounting Review*, 3-24.

³⁹ Andrew et al (2016). 'Prison Privatisation in Australia: The State of the Nation'. *The University of Sydney Business School*, 20-30.

⁴⁰ *Ibid.*

⁴¹ AAP, *Parklea prision 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

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 so". Light has yet to be shed on how he came to be restrained and shackled, and 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.

11. Benchmark function for privatisation

One of the justifications of privatising prisons is to use private prisons as a benchmark for the standards of other publicly operated ones. In 2005, the Public Accounts Committee's 'Value for Money in NSW Correctional Facilities' inquiry concluded that New South Wales should maintain '... at least one private prison in the State for the purposes of benchmarking the performance of publicly operated centres and to encourage the development of innovative management techniques'.⁴³ Whilst theoretically of benefit to the prison system, there are issues which arise from the use of private prisons as benchmarks in determining prison standards.

First, using private prisons as benchmarks 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 to those of private prisons 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.⁴⁴ This emphasises that, alongside the

²⁰¹⁷⁾ Sydney Morning Herald NSW http://www.smh.com.au/nsw/correctional-officer-fired-after-allegedly-smuggling-tobacco-into-prison-20171210-h02ak1.html

⁴² 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>

⁴³ Public Accounts Committee of New South Wales (PAC) (2005) – Value for Money from New South Wales

Correctional Centres. (Report No. 156). PAC, Sydney. Viewed 17 March 2016.

 $^{^{44}}$ Corrective Services NSW, Better Prisons: Performance targets and benchmarking Factsheet #2, (2016), Corrective Services NSW

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 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.

http://www.correctiveservices.justice.nsw.gov.au/Documents/CSNSW%20Fact%20Sheets/better%20prisons/Better_Factsheet_2_Benchmarking_180316_1300_INTERNET_accessible.pdf

Appendix A - 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 B - 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 tobaco to inmate'
- 7: 'Correctional Officer fired after allegedly smuggling tobaccoo into prison'
- 8: 'Family calls for investigation after Eric Whittaker died shackled by his ankles in aq 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'45

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 section 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.

 $^{^{45}}$ Janet 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 46

The Australian 12:00AM July 11, 2017 SAM BUCKINGHAM-JONES

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

 $^{^{46}}$ Sam 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>

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.

3: ABC News: NSW Corrective Services Commissioner appalled by Parklea Prison contraband video⁴⁷

July 10 2017 Ben Worsley

The New South Wales Corrective Services Commissioner says he was appalled when he saw a <u>video filmed by an inmate at Parklea Prison</u>, 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.

⁴⁷ Ben Worsely, 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

"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'

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 in appropriately, 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."

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 NSW⁴⁸

Updated 17 January By Marese O'Sullivan

A 28-year-old man allegedly set fire to a blanket inside his cell in the maximumsecurity 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 alight⁴⁹

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.

⁴⁸ 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

 $^{^{49}}$ 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

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.

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6: Parklea prison guard charged for smuggling tobacco to inmate⁵⁰

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.

⁵⁰ AAP, *Parklea prision 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/

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.

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

7: Correctional officer fired after allegedly smuggling tobacco into prison⁵¹

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.

 $^{^{51}}$ Rachel Clun, Correctional Officer fired after allegedly smuggling to bacco 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

8: Family calls for investigation after Eric Whittaker died shackled by his ankles in a Sydney hospital bed⁵²

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

⁵²Sarah 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>

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.

9: Coronial inquest: Lake Macquarie man takes his own life at Parklea Correctional Centre⁵³

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.

⁵³ 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/

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 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.

10: Union welcomes inquiry into scandal ridden Parklea private prison⁵⁴

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.

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."

⁵⁴ 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/