

Supplementary
Submission
No 34a

INQUIRY INTO PARKLEA CORRECTIONAL CENTRE AND OTHER OPERATIONAL ISSUES

Organisation: Justice Action

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Parliamentary Inquiry into Parklea Correctional Centre and Dormitory Prisons

Evidence Evaluation and Recommendations



Parklea Correctional Centre, Parklea, 2016

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1.0 Overview

The Inquiry into the Parklea Correctional Centre and Dormitory Prisons began on the 23rd of November 2017 (refer to Appendix A for Terms of Reference) following a YouTube video of a Parklea prisoner boasting the ease of trafficking and possessing contraband. The Inquiry received submissions from 34 organisations, including the Australian Human Rights Commission (AHRC), Corrective Services NSW (CSNSW), GEO Group, SERCO and PSA NSW.

This report examines and evaluates the submissions made by the parties, evidence and the transcripts of the hearing. This report provides an objective assessment based on the evidence to the Inquiry and makes several recommendations.

2.0 Recommendations

The following recommendations are based on the weight of the evidence and submissions made to the Parklea Rapid Build Prison Inquiry:

- 1) The privatisation of Parklea Prison should be reversed and instead become a government run institution.** This will ensure that the wellbeing of prisoners continues to be a priority. The analysis has shown that privatised prisons tend to have worse outcomes. Instead, the prisons should be structured around rehabilitation, reducing reoffending, encouraging education and a cultivation of a safer environment rather than cost cutting and making a profit.
- 2) The current dormitory design of Hunter and Macquarie Correctional Centres should be restructured after consultation with all stakeholders.** The single living space increases the risk of assault, anxiety and self-harm due to a lack of privacy and individualised spaces. When designing prison areas, recommendations from inmates are imperative. While some inmates may prioritise companionship, others may require more personal space. Internal redesign can be an effective and inexpensive solution.
- 3) All prisoners must have access to a computer and Internet.** Access to technology lessens social isolation without lessening security restrictions. It gives efficient safe communication with family, mainstream rehabilitation, legal and education services. The dormitory prison computer service needs to be upgraded.
- 4) Educational and vocational training programs need to be reformed in order to better address the varying needs of the prisoner population.** Prisoners need teachers who are trained to deal with the

complex and individual needs of prison students. They should teach fundamental skills, arts, and music as well as facilitate distance education.

3.0 Issues with Privatisation

3.1 Accountability & Transparency

The NSW government has been criticised for their adoption of the privatisation plan without sufficient evidence to validate its implementation. Public prisons are a state-run institution where prisoner wellbeing is the paramount concern. Private prisons, on the other hand, do not have this principle enshrined in practice and seek to maximise profits. Indeed, GEO Group Australia's submissions emphasised the cost savings achieved due to their operation of the Parklea Institution.¹ As a result, the state is outsourcing prison management and accountability.

Although the contracts for Parklea prison are publicly available, "they are heavily redacted and exclude important information about costs and other performance measures."² Commercial-in-confidence laws also prevent the missing information from being obtained by freedom of information requests. Withholding key details from the public domain violates public accessibility interest, and hinders the justice that could be delivered via freedom of information laws. Accordingly, GEO Group's assertion that they are more accountable than a publically owned prison because of their profit motive is absurd in light of the secrecy surrounding their agreement.³ There has been widespread criticism regarding the secrecy of these agreements. The NSW Nurse and Midwives' Association have also raised these concerns regarding accountability and Legal Aid NSW has suggested statutory reform to ensure greater accountability.⁴ Dr Andrew and Dr Baker have also stated "in terms of accountability, New South Wales performs poorly."⁵

3.2 Cost-Benefit Approach of Prison Business Management

The Community Justice Coalition (CJC) raised the point that private prisons are for-profit, whilst public prisons do not have this motive: "in a prison system, no matter how good they may be or how many programs they may have or how

¹ GEO Group Australia, Submission No 29 to Legislative Council Portfolio Committee No 4, Parliament of New South Wales, *Inquiry into Parklea Correction Centre and Other Operational Issues*, 28 February 2018, 6-7.

² Transcript of Proceedings, *Parklea Rapid Build Prison Inquiry* (Legislative Council, 2 August 2018) 16 (James Hall).

³ GEO Group, above n 1, 5.

⁴ NSW Nurse and Midwives Association, Submission No 31 to Legislative Council Portfolio Committee No 4, Parliament of New South Wales, *Inquiry into Parklea Correctional Centre and Other Operational Issues*, 28 February 2018, 6; Legal Aid NSW, Submission No 36 to Legislative Council Portfolio Committee No 4 Parliament of New South Wales, *Inquiry into Parklea Correction Centre and Other Operational Issues*, 28 February 2018, 11-12.

⁵ J. Andrew and M. Baker, Submission No 11 to Legislative Council Portfolio Committee No 4 – Legal Affairs, Parliament of New South Wales, *Inquiry into Parklea Correction Centre and Other Operational Issues*, 7 February 2018, 9.

good their rates of recidivism are, they have an obligation to make a profit, whereas governments do not.”⁶

Due to commercial interests, the decisions made by privatised prisons will therefore depend heavily on financial incentives, rather than ensuring adequate care for its prisoners and reducing recidivism. Indeed, the Key Performance Indicators of the Parklea contract are hidden to the public.⁷ Accordingly, the public will be unable to conclusively discern the government-mandated requirements behind operation of the Parklea facility, and as a corollary to this, properly measure the outcomes of the Parklea institution.

Contrastingly, government-run prisons are founded upon the duty to look after their inmates within the bounds of reasonable expenditure. As a result, administering sufficient care to the prison population is in the best interests of a public prison. Dowd also recommended implementing an anonymous complaint mechanism and issuing prisoner surveys in order to monitor prison quality.⁸ This survey would create a more transparent method of prison evaluation.

3.3 Innovation

Gary Sturgess, a Professor of Public Service Delivery at University of New South Wales, made a submission stating, “one of the great benefits of private prisons is that you have a cross-fertilisation of innovations from the private prison system into the public prison system.”⁹ This is an assertion that cannot be held to be true. The Hon John Dowd AO QC and the Hon Elizabeth Evatt AC of the CJC asserted that just as much innovation could exist in an entirely public system, as they are judged to common criteria and can thus share their innovations.¹⁰ It was also put to the Inquiry that innovation was not being fostered in private prisons, as their motivations are intrinsically centred on profit, rather than prisoner wellbeing.¹¹ Dr Andrew and Dr Baker have also supported this after noting the lack of evidence to suggest that private prisons are more innovative and efficient than public ones.¹²

3.4 Adherence to Minimum Standards

In the May 2018 hearing (Refer to Appendix A), the managing director of GEO group, Pieter Bezuidenhout, attempted to dispel misconceptions around privatised correctional facilities.

⁶ Transcript of Proceedings, *Parklea Rapid Build Prison Inquiry* (Legislative Council, 2 August 2018) 23 (John Dowd).

⁷ J. Andrew, M. Baker and P. Roberts, *Prison Privatisation in Australia: The State of the Nation*, (Report, University of Sydney, 2016) 30.

⁸ Transcript of Proceedings, *Parklea Rapid Build Prison Inquiry* (Legislative Council, 2 August 2018) 25 (John Dowd).

⁹ Ibid, 28.

¹⁰ Ibid, 29.

¹¹ Ibid.

¹² Andrew and Baker, above n 7, 9.

A study conducted by Biles and Dalton found that the private prisons of Port Phillip, Deer Park, and Arthur Gorrie all have higher rates of deaths and suicides than the average for Australian prisons.¹³ Another example of the poor execution of the 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 scam.¹⁴

3.5 Standards of Care

Privatised prisons are incentivised to reduce costs in important services such as medical care, security personnel and programming in order to seek maximum returns for their investors.¹⁵ These cuts threaten the health and safety of prisoners and staff, while benefiting only the interests of these private companies. Stephen Nathan, a leading prison privatisation 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.¹⁶

In Parklea, recent inmate suicides in November 2017 and May 2018 raised urgent questions regarding the standard of care in Parklea, including how easily the inmates were able to take their own lives without raising the alarm of those entrusted with their care.¹⁷

Following the privatisation of Parklea and Cessnock in 2009, Cessnock has implemented a number of changes in the management of the facility.¹⁸ Firstly, the complete transition of all one-out accommodation cells to two-out cells has increased the number of inmates. It has also increased risks to staff as the use of one-out cells as an inmate management tool is no longer available.¹⁹ Furthermore, while two wings have been allocated to female inmates, this has occurred without the provision of full infrastructure or staff receiving the required training to support and manage these changes.²⁰

Regarding matters of staffing, while CSNSW has not identified any instances of insufficiency, there has been a decrease in staff numbers at Parklea, exacerbated

¹³ J. Andrew & D. Cahill, *Value for money? Neoliberalism in NSW prisons* (Australian Accounting Review, 2008), 886.

¹⁴ *Ibid*, 891.

¹⁵ C. Penter, 'The power of the corporate (private) prison industry' *The Stringer Independent News* (online), 14 April 2014 <<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#.W31qJFF97zU>>.

¹⁶ S. Nathan, 'Blind faith in private prisons' (2008) 93 *Independent Monitor*, 24.

¹⁷ S. Rigney, 'Coronial inquest: Lake Macquarie man takes his own life at Parklea Correctional Centre', *The Herald*, November 10 2017.

¹⁸ Cessnock Prison Officers Vocational Branch (POVB), Submission No 2 to NSW Legislative Council, *Inquiry into Parklea Correctional Centre and Other Operational Issues*, 26 Jan 2018, 4-5.

¹⁹ *Ibid*, 5.

²⁰ *Ibid*.

by “unfilled vacancies and absences.”²¹ The situation with the general prison population is the opposite, with inmate numbers rising by approximately 50% from 9,000 prisoners to 14,000 over the past five years.²²

3.6 Contraband

The rate of contraband detection at Parklea has been consistently greater than other comparable prisons since 2009.²³ In the 2016-2017 period, Parklea saw 49.4 contraband detection incidents per 100 inmates, while comparable prisons saw 38.2 incidents per 100 inmates. The rate of contraband recorded at Parklea remained stable between the 2015-2016 and the 2016-2017 periods, while comparable prisons saw a rise in contraband detection incidents. Mr Laws, General Manager of Parklea Correctional Centre, and Mr Karauria, Director Correctional Services of GEO Group, suggested that the higher rates at Parklea could be attributed to the rigor of their search practices.²⁴

Regardless of quantity, however, the inflow of contraband has raised staff concerns. The NSW Nurse and Midwives Association have discussed the concerns for safety that have arisen due to the contraband.²⁵ The need to achieve a profit is undoubtedly a factor in this, constraining the ability to hire more nurses to ease the staffing pressures.

The Parklea facility is one of the highest trafficked facilities in NSW and essentially operates as a remand facility – there is an exceptionally high turnover rate of prisoners.²⁶ When questioned about whether the number of inmates entering and exiting the facility increased any security risks, Mr Laws responded only in relation to contraband, stating that the risk of trafficking was increased.²⁷

The conclusion drawn from these findings is that privatised prisons’ cost cutting reduces staff at the expense of lessening safety. Whilst the secretive and inaccessible agreements do prevent a fully informed analysis, the evidence suggests that the private prison sector is not more innovative.

²¹ GEO Group Australia, Submission No 38 to Legislative Council Portfolio Committee No 4, Parliament of New South Wales, *Inquiry into Parklea Correction Centre and Other Operational Issues*, 20 April 2018, 8.

²² Transcript of Proceedings, Portfolio Committee No. 4 – Legal Affairs, Parliament of New South Wales, *Parklea Correctional Centre and Other Operational Issues*, May 18 2018, 26.

²³ Corrective Services (NSW), Legislative Council, Submission No 37 to Portfolio Committee No. 4, *Inquiry into Parklea Correctional Centre and Other Operational Issues* (2018) 63 [498].

²⁴ Transcript of Proceedings, Portfolio Committee No. 4 – Legal Affairs, Parliament of New South Wales, above n 7-8.

²⁵ NSW Nurse and Midwives Association, above n 4, 5.

²⁶ Transcript of Proceedings, Portfolio Committee No. 4 – Legal Affairs, Parliament of New South Wales, *Parklea Correctional Centre and Other Operational Issues*, May 18 2018, 22, 11.

²⁷ *Ibid.*

4.0 Dormitory-Style Prisons

4.1 Safety & Wellbeing

Mr Corcoran, NSW Assistant Commissioner of Corrective Services, has claimed that the Rapid Build Prison infrastructure with raised viewing platforms allows officers to supervise prisoners. Therefore, if major incidents were to occur, they would be able to respond from above with gas, without direct intervention.²⁸ These stringent security measures supposedly provide a safer environment for both inmates as well as prison staff and suggest a solution to documented difficulties in supervising and controlling groups in crowded prisons.²⁹

Recent feedback from inmates and staff at the Rapid-Build Prison, Macquarie Correctional Centre, “has been overwhelmingly positive, in terms of amenity, safety and security,”³⁰ supporting Mr Corcoran’s claims about the increased security measures at Rapid-Build Prisons. For example, the Senior Assistant Superintendent at Macquarie CC has spoken positively about the level of safety at the Rapid-Build Prison, believing that other correctional centres will soon follow in the footsteps of Macquarie CC.³¹ Macquarie CC’s Senior Correctional Officer has also submitted feedback specifically in regard to the aforementioned viewing platforms, agreeing that this new infrastructure allows staff to supervise situations “without putting staff at risk.”³²

However, consistent surveillance of prisoners has the ability to negatively affect their psychological wellbeing by removing any form of privacy. Overcrowding exacerbates these feelings, a practice that the Inspector of Custodial Services has said denies prisoners “a modicum of dignity and humanity” and so “it should not be surprised if they respond accordingly with individual acts of noncompliant behaviour escalating into collective disorder such as riots”.³³ Lippke argues that the cultivation of pro-social responsible behaviour is only achieved when inmates are not subject to constant monitoring.³⁴ As an alternative, Fairweather and McConville states that direct supervision with the intermingling of staff and prisoners has been found to foster positive relationships, leading to “more effective surveillance and better security” resulting in less conflict and violence between prisoners and prison officers.³⁵

²⁸ Corrective Services (NSW), Department of Justice, Submission No 37 to Legislative Council Portfolio Committee No. 4 - Legal Affairs, *Inquiry into Parklea Correctional Centre and Other Operational Issues*, 16 March 2018, 8 [30].

²⁹ C. Haney, *Overcrowding and the Situational Pathologies of Prison* (American Psychological Association, 2006) 204.

³⁰ Corrective Services (NSW), Legislative Council, Submission No 37 to Portfolio Committee No. 4, *Inquiry into Parklea Correctional Centre and Other Operational Issues* (2018) 8 [36].

³¹ *Ibid*, 106 [736].

³² *Ibid*.

³³ *Ibid*, 6.

³⁴ R. Lippke, *Rethinking Imprisonment* (2007) cited in J. Reiman, ‘Should We Reform Punishment Or Discard It?’ (2009) 9 *Punishment and Society*.

³⁵ L. Fairweather and S. McConville, *Prison Architecture: Policy, Design and Experience* (Architectural Press, 2003) 35, cited in C. McKay, *Inquiry into Parklea Correctional Centre and Other Operational Issues*, Submission 17, (2018) 4.

Additionally, while Rapid Build prisons feature chemical agents that can be activated in the event of a prison riot, evidence shows that continuous gassing in enclosed environments can cause serious injury.³⁶

Mr Corcoran has further claimed that in these prisons, the structured environment of work, vocational training, and education from 6:30am till 10pm provides additional security measures because the inmates are “usefully occupied”.³⁷ He claims that, “for some people who have been locked up for 18 hours a day, [the 15 hour structured day] was just way too much for them.”³⁸ As of May 2018, 19 inmates from Macquarie Correctional Centre and 24 inmates from the Hunter Correctional Centre have sought to be transferred. He denies violence as an explanation for this, claiming that the inmate-to-inmate assaults are “much lower than in any other comparable facility”.³⁹ However, the figures provided on notice show that the rate of assaults per 100 inmates have steadily increased monthly in both Hunter and Macquarie facilities since the opening of the facilities.⁴⁰ The latest results from May 2018 show a rate of 2.5 in the Macquarie Facility – higher than the average comparison rate of male maximum-security prisons of 2.1.⁴¹ This is consistent with evidence put forward by the Community Justice Coalition that show that prisons which have operated at excessive capacity and/or with a dormitory layout have had higher assault rates.⁴²

Correctional Centre	Period	Inmate on Inmate Assaults	Rate (per 100 inmates)	Comparison Rate (Male maximum security)
Hunter +	Feb 2018	0	0.0	2.9
	Mar 2018	2	0.7	2.7
	Apr 2018	5	1.5	2.6
	May 2018	5	1.4	2.1
Macquarie ++	Dec 2017	0	0.0	3.4
	Jan 2018	0	0.0	3.4
	Feb 2018	1	0.5	2.9
	Mar 2018	2	0.6	2.7
	Apr 2018	4	1.1	2.6
	May 2018	9	2.5	2.1

Note:
 * Numbers are based on counting rules established for the Commonwealth Productivity Commissions Report on Government Services and represent the number of victims injured in each incident involving violence (both assaults and fights).

Figure 1. Table taken from the 18th May Portfolio Committee No. 4 Transcript and the Collective Services answers to questions on notice

³⁶ K.M. Thorburn, *Injuries after Use of the Lacrimatory Agent Chloroacetophenone in a Confined Space* (1982); A.J. Chapman and C. White, *Case Report: Death Resulting from Lacrimatory Agents* (1978), cited in C. McKay *Inquiry into Parklea Correctional Centre and Other Operational Issues*, Submission 17, (2018) 6.

³⁷ Corrective Services (NSW), above n 21, 8.

³⁸ Transcript of Proceedings, Portfolio Committee No. 4 – Legal Affairs, Parliament of New South Wales, above n 22, 23; 42.

³⁹ Ibid.

⁴⁰ Corrective Services (NSW), above n 21, 53 [408].

⁴¹ Ibid.

⁴² G. Gaes, ‘Prison Crowding Research Re-examined’ (1994) *Prison Journal* 74(3) 1, cited in Community Justice Coalition, *Inquiry into Parklea Correctional Centre and Other Operational Issues; Submission 30* (2018) 9.

Dr Carolyn McKay has argued that the most relevant literature does not support the use of dormitory accommodation in providing safe rehabilitative environments for prisoners.⁴³ The NSW Ombudsman's Inquiry into Juvenile Detention Centres in 1996 found that dormitory accommodation did not aid in the detainees' safety or privacy.⁴⁴ As a result of surging Aboriginal deaths in custody, Aboriginal prisoners have been housed in dormitories, with this viewed as the best model for their safety and wellbeing. However, Grant and Memmott believe that this does not address their needs in terms of personal safety, privacy and health.⁴⁵ In addition, clarification is needed in terms of the out-of-dormitory hours. Currently in NSW, the out-of-cell hours are the lowest when compared to the other states.⁴⁶ This needs to be addressed in order to uphold prisoners' welfare. Further studies show that in the US, dormitory style accommodation has been found to "promote violence, as well as gangs, higher natural death rates among older prisoners, increased stress and drug use."⁴⁷

Furthermore, NSW Nurses and Midwives' Association Work Health and Safety Professional officer Veronica Black, who attended both the Macquarie and Cessnock Correctional Centres to carry out pre-occupancy inspections, discovered that there was non-compliance with a number of Australasian Health Facility guidelines and the breaching of the requirements of NSW Health Policies such as Protecting People and Property.⁴⁸ Furthermore, the NSW Nurses and Midwives' Association have expressed concern that with 25 maximum-security prisoners, dormitory prisons will lead to an "increase in assaults and intimidations of prisoners by other prisoners" as a result of a large volume of people being contained in a singular space.⁴⁹

4.2 Impacts on Prisoners

The loud noises at night and the lack of privacy for inmates were the biggest concerns raised in the Inquiry. As observed by the CJC, the housing situation had

⁴³ Corrective Services (NSW), Submission No 17 to Legislative Council Portfolio Committee No. 4 - Legal Affairs, *Inquiry into Parklea Correctional Centre and Other Operational Issues*, 13 February 2018, 1-6.

⁴⁴ Australian Law Reform Commission, *Seen and heard: priority for children in the legal process (ALRC Report 84)* (1994) <<https://www.alrc.gov.au/publications/report-84>>.

⁴⁵ E. Grant and P. Memmott, 'The case for single cells and alternative ways of viewing custodial accommodation for Australian Aboriginal peoples' (2008) 10 *Flinders Journal of Law Reform*, 631-647

<https://dspace.flinders.edu.au/xmlui/bitstream/handle/2328/1836/Grant_and_Memmott%20jaa.pdf;jsessionid=4AB2BED12F106C52F8A657E9B07793F7?sequence=4>.

⁴⁶ J.R. Paget, 'Full house: The Growth of the Inmate Population in NSW' (2015) *Inspector of Custodial Services*, 2015, 45.

⁴⁷ J. Peguese and R. Koppel, *Managing High-Risk Offenders in Prison Dormitory Settings* (2003); V.C. Cox, P.B. Paulus and G. McCain, *Prison crowding research: The relevance for prison housing standards and a general approach regarding crowding phenomena* (1984); R.G. Ledger, *Perception of crowding, racial antagonism, and aggression in a custodial prison* (1988); E. Grant and P. Memmott, *The case for single cells and alternative ways of viewing custodial accommodation for Australian Aboriginal peoples* (2008); cited in C. McKay, *Inquiry into Parklea Correctional Centre and Other Operational Issues*, Submission 17, (2018) 30.

⁴⁸ NSW Nurse and Midwives Association, above n 4, 7.

⁴⁹ *Ibid*, 7.

produced numerous complaints concerning snoring and “the noise of a cough [which] could be heard in the whole dormitory.”⁵⁰ With reference to the Ian Klum case in Grafton, where Klum was killed in his cell due to his loud snoring in June 2010, it is apparent that the increased noises at night can be an aggravating factor for violence.⁵¹

It was also stated that access to privacy was necessary for the wellbeing of prisoners, particularly for those suffering mental health issues. Furthermore, lack of privacy for inmates has shown to be correlated with instances of bullying and violent behaviour. This is supported by findings by the CJC who noted a consensus by prisoners preferring “the privacy of their own cells where they could relax and behave without others’ observations.”⁵² Following this, the idea of configuring internal barriers within the 25 person open space was strongly proposed, as this would provide inmates with a private space to relax, free from potential harassment.

The need for prisoners to have access to computers and the Internet was a widely established concern. Access to technology is needed in order to gain educational qualifications and communicate with family, which is vital for effective rehabilitation and reintegration into society.

Mr Dowd and Ms Evatt of the CJC also raised concerns that the current educational programs and vocational training were insufficient to meet the complex needs of prisoners.⁵³ The prisoners’ low standard of education does not support such an advanced set of education programs. Evatt also highlighted the fact that Rapid-Build Prisons should only be seen as a response to immediate overcrowding problems.⁵⁴

4.3 International Experience with Dormitory Prisons

4.3.1 The United States

In the US state of South Carolina, a dormitory style prison is implemented with size tending to vary from as few as 50 inmates with 25 bunk beds to 200 inmates with 200 bunk beds.⁵⁵ Everything that an inmate does is seen – showering, changing and sleeping. Theft is also common and the conditions within the prisons mean that any sense of personal security is destroyed. In Maryland, violence in the dorm is a main concern as the prison consists of maximum-security inmates who have mainly committed violent crimes. The population is

⁵⁰ Community Justice Coalition, *Report from Prisoners at Hunter Correctional Centre* (Report, June 29 2018) 1.

⁵¹ ABC North Coast NSW, *Inquest hears of death threats against inmate* (29 March 2012) <<http://www.abc.net.au/local/stories/2012/03/29/3466735.htm>>.

⁵² *Ibid*

⁵³ Transcript of Proceedings, Portfolio Committee No. 4 – Legal Affairs, Parliament of New South Wales, above n 22, 26.

⁵⁴ *Ibid*, 28.

⁵⁵ Community Justice Coalition, *Inquiry into Parklea Correctional Centre and Other Operational Issues; Submission 30* (2018) 9.20-22.

1200 inmates and 537 dorm beds, with the large population making it easier to conceal illicit activities from officers.

4.3.2 Romania

In Romania, it is noted that a dormitory style prison comes with serious security problems.⁵⁶ This is due to the large amount of prisoners, sometimes up to sixty inmates, locked into the one room at night with no form of supervision. This means that inmates act as their own security guards for their cell, which has resulted in numerous reports from inmates of physical and sexual assault.

4.4 Hunter Correctional Centre (HCC)

4.4.1 Report from HCC Prisoners

The HCC is a rapid build dormitory prison and thus presents an insight to the likely problems to be faced by the Parklea Facility. Prisoners say they were transferred to without consent after correctional officers were unable to convince enough prisoners to voluntarily transfer.⁵⁷ This resulted in reports of some prisoners being moved away from family members, making it more difficult for them to receive visits, which exacerbated their isolation from support networks and induced significant distress.

Prisoners were greatly concerned by the Dormitory style housing. Older prisoners expressed fears regarding their safety due to being housed with younger, more aggressive inmates.⁵⁸ As there is no form of transfer policy, these concerns are exacerbated and remain a cause for concern for prisoners.

Furthermore, the HCC also fails to provide prisoners with on-site access to dental services and therapists; instead prisoners have to be transferred to other centres to receive this type of medical care.⁵⁹ Prisoners have also complained of lengthy waiting lists to see doctors, some claiming it can be a 3-month wait.

Moreover, the lighting installed in each pod consists of long fluorescent lights along with 14 individual nightlights.⁶⁰ Due to the dormitory style nature of housing even once inmates are asleep the dorm remains illuminated with the nightlights. Prisoners have thus complained about disrupted sleep and stress, as observed by the CJC, these lights are a “major cause of stress and anxiety [for inmates.]”⁶¹ The refusals by the prison staff to accommodate these concerns have too caused greater resentment towards guards.

One of the major issues with the HCC dormitory style housing stems from the lack of privacy it provides to inmates. Specifically, in order to improve privacy, curtains were approved to be added to cubicles, however this is yet to be completed.⁶² The walls surrounding the cubicles are only 1.5 metres high,

⁵⁶ Ibid, 20 s 5.2..

⁵⁷ Community Justice Coalition, above n 45, 1

⁵⁸ Ibid.

⁵⁹ Ibid, 2.

⁶⁰ Ibid.

⁶¹ Community Justice Coalition, above n 45, 1

⁶² Ibid, 3.

meaning that inmates are often disturbed at night when trying to sleep by other inmates talking. Overall, the report outlines how dormitory style housing is detrimental to inmates as it infringes upon their privacy and creates an unsafe environment, which inmates wish to be transferred out of.

4.4.2 Community Justice Coalition Report

The CJC visited the HCC on May 24th 2018, in order to observe the functioning of the prison. During this visit, CJC talked to prisoners in order to gauge their feelings about the new prison setting. As was noted in the prisoners report above, many prisoners recounted how they were moved to HCC without consenting to this.⁶³ For some this constituted an upgrade from minimum-security prison living to a maximum security where they lost minimum-security privileges including half-day visits.

During the visit many prisoners reported being happy with the prison and the new accommodation. Inmates reported that they liked using the facilities provided to them, including the outdoor environment, which allowed inmates to see the stars.⁶⁴ However, there were complaints raised about inmates snoring and the way small noises such as coughs and footsteps were amplified by the dormitory setting.⁶⁵ Despite being content with the accommodation, inmates also stated that they preferred the privacy granted to them by individual cells.⁶⁶ Although there were no explicit safety concerns, there was an awareness of constantly being monitored by others.⁶⁷

Additionally, the 11-inch screen in each cubicle was without a keyboard, although the CJC was assured a Bluetooth one would be supplied.⁶⁸ At the moment, the screen gives them access to their personal information and mainstream entertainment. It provides the choice of TV and radio programs, information on the prisoner's visits, phone and financial accounts.⁶⁹ Prisoners are provided with hearing devices, but a number decide to purchase better quality headphones, which are available to them.⁷⁰

The benefits raised by the prisoners in the above reports are not uniquely exclusive to the dormitory prison. The ability to have access to outside spaces and a general feeling of safety should be available to prisons of all forms, not just dormitory style prisons.

⁶³ Ibid.

⁶⁴ Ibid, 4

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid, 3.

⁶⁹ Ibid, 4.

⁷⁰ Ibid.

4.4.3 Corrective Services NSW Responses

Part A: Response to the CJC Report

The CSNSW response to the Report of CJC visit to the HCC disputes a number of claims made by prisoners and members of the CJC. Their response argues that the centre has not received complaints from inmates in relation to snoring or noise in the dormitory units, and further, all units are fitted with noise-dampening systems to prevent this issue.⁷¹ The response also commented on the validity of some of the noise complaints, claiming that inmates had indicated that snoring had occurred but were not officially making a noise complaint.

CSNSW further argue that many inmates have expressed a preference for the open-style dormitory design and enjoy the freedom it facilitates, contradicting many of the findings reported by CJC and by prisoners themselves.⁷² In response to the issue of safety, CSNSW suggest that the levels of staffing and surveillance in the HCC and other rapid build prisons are far more advanced than previous designs. This means that prisoners should experience a safer environment as staff can respond to incidents and issues quicker.⁷³ CSNSW refute many of the issues regarding dormitory-style accommodation, stating that inmates are housed in accordance to their security classification and providing evidence of an older inmate who described his positive experience within the new, more social atmosphere.⁷⁴

Part B: Response to the Prisoners Report

In regards to prisoner complaints about the intense lighting in the dormitories, CSNSW argue that the dormitory lighting has been tested and does not interfere with sleep patterns. Furthermore, they claim that when requested by inmates, the pathway lights in the pods have been switched off to ensure prisoners are able to sleep comfortably.⁷⁵ CSNSW aim to address the issue of privacy by installing curtains in the doorways of each cubicle, but acknowledge that this has yet to be implemented. However, they state that the curtains have been manufactured and are simply awaiting installation.⁷⁶

CSNSW reject claims made by CJC that insinuate that no inmates wish to remain at the HCC, arguing that the centre has received an excess of 35 requests by minimum-security inmates to remain at the centre for the rest of their sentence.⁷⁷ This would suggest that these inmates have had a more positive experience at the HCC, compared to previous experiences in traditional single-cell prisons.

⁷¹ L. Grant, *Response to the Report of the CJC Visit Hunter Correctional Centre – Part A* (2018) 5.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ L. Grant, *Response to the Report of the CJC Visit Hunter Correctional Centre – Part B* (2018) 2.

⁷⁵ *Ibid.*, 4-5.

⁷⁶ *Ibid.* 5.

⁷⁷ *Ibid.*, 6.

4.4.4 Conclusions

Evidence was given to the Community Justice Coalition inspection team on May 24th 2018 and also in a report supplied by prisoners after a consultation amongst themselves. Both these were supplied to the Inquiry by the CJC. These are statements received as insights into prisoners' views of their accommodation by impartial observers. This evidence is contradicted by NSW Corrective Services who clearly has a vested interest in dismissing criticisms and portraying the dormitory prisons in a positive light. A natural conclusion on the balance of the evidence supplied is that prisoners are unhappy with the current structure. A draft questionnaire has been prepared for distribution to prisoners in both Hunter and Macquarie correctional facilities to assess their views. This is designed to give the Committee direct evidence of their views.

From our provisional findings, it is clear that the dormitory-style prison is inferior to individual cells. It can intensify the already-severe psychological pressures through constant surveillance, and removes each prisoner's privacy. This is apparent from both international and Australian experiences.

5.0 Prisoner Rights and Freedoms

5.1 Privacy

Evidence put forward by the CJC shows the negative effects of overcrowded prisons in terms of privacy, as summarised above.

5.1.1 Protection of Fundamental Human Rights

Rule 9.1 of the UN Standard Minimum Rules for the Treatment of Prisoners (UNSMRTP) states that "each prisoner shall occupy by night a cell or room by himself" and if "special reasons" exists for which this cannot occur, that it is "not desirable to have two prisoners in a cell or room".⁷⁸ The separation of cells by a 1.5m wall and the exclusion of doors in the dormitory style rooms raise questions as to whether this rule is met.

5.1.2 Lack of privacy in cells

Research has found that a lack of privacy can often lead to distrust and subsequent violence between inmates.⁷⁹ Prisoners are also more likely to experience forms of anxiety, as there seems to be a correlation between reduced personal space and experiencing anxiety.⁸⁰ As such, open-dormitory prisons are related to a higher use of prison-clinics and elevated blood pressure in inmates.⁸¹

5.2 Prisoner's International Rights

Australia is obliged to uphold the human rights of prisoners, as it is a signatory to international human rights conventions that apply across federal, state and

⁷⁸ United Nations, *Standard Minimum Rules for the Treatment of Prisoners, Part 1 (9)1* (1955).

⁷⁹ M. Maraganore, *Designing for an unoppressive prison architecture* (Dissertation, University of Cincinatti, 2017) 46.

⁸⁰ D. Main, *Get Out of My Face! Anxious People Need More Personal Space* (August 2013) Live Science <<https://www.livescience.com/39229-personal-space-anxiety.html>>.

⁸¹ G. Gaes, 'Prison Crowding Research Reexamined' (2014) *Prison Journal* 1, 4.

territory governments.⁸² While prisoners are deprived of freedom in prison, they remain entitled to their basic human rights. The effects of privatising prisons undermine these rights.

5.2.1 *Universal Declaration of Human Rights (UDHR)*

- Article 5 of the Universal Declaration of Human Rights (UDHR) and Article 7 of the International Covenant on Civil and Political Rights (ICCPR) states that “no one should be subject to torture, or to cruel, inhuman or degrading treatment or punishment”.⁸³
- Article 25 of the UDHR states that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing and medical care.”⁸⁴

A Rapid-Build Prison breaches Article 25 due to its failure to provide adequate housing, given the overcrowded circumstances, prevents a prisoners’ right to a standard of living that is adequate to a person’s health and wellbeing. This is supported by findings by the CJC who observed there are no dental services or therapists available at the Hunter and “lengthy delays to see a doctor,” causing significant dangers to inmates.⁸⁵ It also establishes an environment conducive to excessive bullying, overcrowding and the facilitation of characteristics such as excessive dominance.

5.2.2 *International Covenant on Civil and Political Rights (ICCPR)*

- Article 7 prohibits any person’s subjection to torture or to cruel, inhumane or degrading treatment or punishment.⁸⁶
- Article 9 of the ICCPR also determines the right to security of a person imposing a duty on the State to protect one from known threats of attack.
- Article 10(1) of the ICCPR asserts, “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”.
- Article 17 of the ICCPR determines that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence...”

A Rapid-Build Prison fails to uphold the rights in the ICCPR. The placement of 25 individuals into one room is a breach of the “inherent dignity of the human person.”

⁸² Australian Human Rights Commission, Submission No 23 to *Legislative Council Portfolio Committee No. 4 - Legal Affairs*, 26 February 2018, 1.

⁸³ United Nations, *Universal Declaration Of Human Rights* (1948) <<http://www.un.org/en/universal-declaration-human-rights/index.html>>.

⁸⁴ *Ibid.*

⁸⁵ Community Justice Coalition, above n 45, 1

⁸⁶ United Nations, *International Covenant on Civil and Political Rights*, (1966) <<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>>.

5.2.3 *International Covenant on Economic, Social and Cultural Rights (ICESCR)*

The ICESCR establishes in Article 12(1) that State Parties recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.⁸⁷ As such, states must take active steps to realise this (Article 12(2)) including:

- a) The improvement of all aspects of environmental and industrial hygiene
- b) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- c) The creation of conditions that would assure to all medical service and medical

5.3 Prisoner's Domestic Rights

5.3.1 *Wellington Correctional Centre*

Wellington Correctional Centre (WCC) was built in Sector 1. Each unit had seventeen multiple occupancy cells and twenty-five single occupancy cells providing a design capacity of 456 beds. By 2016 eighty-six prisoners were being housed in to a unit designed for a maximum of fifty-six prisoners and by August 2017 the operation capacity was approximately 750 beds over the designed capacity.⁸⁸ Although WCC is operating at 40% over the designed capacity there have been no extra facilities introduced such as chairs or tables to sit on or eat at as well as no increase in the ventilation system.⁸⁹

This practice was defended by the Inspector of Custodial Services, who referred to the practice of turning single occupancy cells into double occupancy cells as “a longstanding and thoroughly institutionalised practice in CSNSW and not simply a response to recent growth of the inmate population.”⁹⁰ Anecdotal evidence to this effect has been provided, with CSNSW significantly increasing capacity of WCC beyond any acceptable degree.⁹¹ This was only to put to a halt after complaints by prisoners and staff.

This fundamentally undermines the credibility and effective functioning of the Justice system. The WCC maximum-security sector saw classification of prisoners become *de facto* irrelevant as they were all housed in the same unit.⁹² This made an already arbitrary form of classification become even more arbitrary, providing no motivation for prisoners to abide by CSNSW regulations.

5.3.2 *NSW*

NSW has no express recognition of prisoner rights, but certain provisions within the *Crimes (Administration of Sentences) Regulation 2014* aim to ensure that certain standards and protocols are adhered to with regard to the use of gas, drug use, education, correctional officer training, rehabilitation, cell size, food

⁸⁷ United Nations, *International Covenant on Economic, Social and Cultural Rights* (1966) <<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>>.

⁸⁸ *Ibid.*, 22: relevant section 6.1, Comments in Reports from Prisoners.

⁸⁹ *Ibid.*

⁹⁰ Community Justice Coalition, above n 49, 22.

⁹¹ *Ibid.*

⁹² *Ibid.*

quality and daily exercise.⁹³ Many of these standards have the effect of affording prisoner's basic rights.

Consideration of possible violations of prisoners' rights included in the regulation should include:

- Cell size: correctional centres are exempt from minimum floor area requirements for rooms and cubicles in premises to be used for the purposes of sleeping accommodation (*Public Health Amendment (Correctional Centres) Regulation 2016*). However, the proposed sleeping quarters are not enclosed and will only be 3 by 2 metres, thus posing several significant risks. The quality of life for prisoners will be significantly reduced by the lack of privacy, resulting in no control over their personalised space.
- The physical layout of the dormitory cell will also limit the availability of living space. It will also likely serve as a catalyst for increased offender-based violence, intimidation, assault, and bullying. This will all have serious ramifications for prisoner safety and health.
- In the event of an outbreak of an infectious disease, the nature of the sleeping quarters will also pose a substantial health risk.

Accordingly, it is evident that a dormitory prison such as Parklea fails to uphold these international and domestic rights. It is an unwarranted intrusion into both the rights of a prisoner and the inherent human rights all prisoners possess.

6.0 Recommendations

Thus, as already outline on page 3, the following recommendations are based on the weight of the evidence and submissions made to the Parklea Rapid Build Prison Inquiry:

- 1) The privatisation of Parklea Prison should be reversed and instead become a government run institution.** This will ensure that the wellbeing of prisoners continues to be a priority. Our analysis through this report has shown that privatised prisons tend to have worse outcomes. Instead, our prisons should be structured around rehabilitation, reducing reoffending, encouraging education and a cultivation of a safer environment rather than cost cutting and making a profit.
- 2) The current dormitory design of Hunter and Macquarie Correctional Centres should be restructured after consultation with all stakeholders.** The single living space increases the risk of assault, anxiety and self-harm due to a lack of privacy and individualised spaces. When designing prison areas, recommendations from inmates are

⁹³ See *Crimes (Administration of Sentences) Regulation 2014* (NSW).

imperative. While some inmates may prioritise companionship, others may require more personal space.

- 3) **All prisoners must have access to a computer and Internet.** Access to technology lessens social isolation without lessening security restrictions. It gives efficient safe communication with family, mainstream rehabilitation, legal and education services. The dormitory prison computer service needs to be upgraded.
- 4) **Educational and vocational training programs need to be reformed in order to better address the varying needs of the prisoner population.** Prisoners need teachers who are trained to deal with the complex and individual needs of prison students. They should teach fundamental skills, arts, and music as well as facilitate distance education.

7.0 Appendix A

7.1 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:

1. (a) the adequacy of staffing levels and staff safety,
2. (b) the inflow of contraband,
3. (c) the security at the facility, including access to gaol keys,
4. (d) corporate governance of the GEO Group and the facility,
5. (e) any possible contraventions of the contract between the NSW Government and the GEO Group,
6. (f) the appropriateness and operation of private prisons in New South Wales,
7. (g) Rapid-Build dormitory prisons,
8. (h) the benchmarking of prisons in New South Wales, and
9. (i) any other related matter.

Committee membership

The Hon Robert Borsak MLC - Shooters, Fishers and Farmers Party (*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

* The Hon Adam Searle MLC substituted for the Hon Shaoquett Moselmane MLC from 22 November 2017 for the duration of the inquiry

** The Hon Scott Farlow MLC substituted for the Hon Catherine Cusack MLC from 28 November 2017 for the duration of the inquiry.

7.2 Timeline

DATES	EVENT
23rd November 2017	The Parliamentary Inquiry was established to report on the current operations of the Parklea Correctional Centre
7th December 2017	The Committee extended its terms of reference to inquire into Rapid-Build dormitory prisons
13th February 2018	The Committee further extended its terms of reference to inquire into the benchmarking of prisons in NSW
18 th May 2018	Commencement of the first public hearing of Parliamentary Inquiry into Parklea Correctional Centre and other operational issues (Portfolio Committee No.4 -Legal Affairs).
24 th May 2018	Assistant Commissioner Luke Grant and Community Justice Coalition, represented by the Hon John Dowd AO QC, Elizabeth Evatt AC and Justice Action, visited the Hunter Correctional Centre.
2nd August 2018	The Hon John Dowd AO QC, Elizabeth Evatt AC and Justice Action attended the Parliamentary Inquiry into Parklea Correctional Centre and other operational issues (Portfolio Committee No. 4 – Legal Affairs)
18 th September 2018	Upcoming hearing date for the Parliamentary Inquiry into Parklea Correctional Centre and other operational issues (Portfolio Committee No.4 – Legal Affairs)

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