

CORRECTED TRANSCRIPT

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 3

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

At Sydney on Wednesday, 1 April 2009

The Committee met at 1.15 p.m.

PRESENT

The Hon. A. Fazio (Chair)

The Hon. J. Ajaka
The Hon. G. Donnelly
The Hon. S. Hale
The Hon. T. Kahn
The Hon. R. Smith
The Hon. H. Westwood

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CHAIR: I welcome you all here to the fourth public hearing of the General Purpose Standing Committee No. 3 inquiry into the privatisation of prisons and prison-related services. Today the Committee is hearing from representatives from the Public Service Association and the Cessnock branch of the Prison Officers Vocational Branch.

In accordance with Legislative Council guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs.

In reporting the proceedings of this Committee, the media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door.

I remind everyone that any messages for Committee members or witnesses must be delivered through the Chamber and Support staff or the Committee clerks.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others. The protection afforded to committee witnesses under parliamentary privilege should not be abused during these hearings. I therefore request that witnesses avoid the mention of other individuals unless it is absolutely necessary to address the terms of reference.

I would like to welcome everyone in attendance today at this public hearing. I would like to remind you not to attempt to participate in the hearing by way of comment or interjection during a witness's evidence. The Committee will have no option but to clear the public gallery if the hearing is interrupted or disrupted.

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STEVE TURNER, Assistant General Secretary, Public Service Association of New South Wales, and

MATT BINDLEY, Chairperson, Prison Officers Vocational Branch, on former oath, and

TONY HOWEN, First Class Correctional Officer, Cessnock Correctional Centre, and

PETER WILLIAMS, First Class Correctional Officer, Cessnock Correctional Centre, affirmed and examined:

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that to us and the Committee will consider your request, and if you do take any questions on notice could you please get them back within 21 days from when the Secretariat gets them to you. Before the Committee commences questions, would anyone like to make an opening statement?

Mr TURNER: Yes. Thank you for allowing us to come back to the Committee. We welcome the chance to have a further talk.

The Public Service Association wishes first to respond to the allegations made by Ron Woodham, most of whose allegations relate to incidents many years ago. No such statements were made about recent events. We say these are not reasons to privatise.

The roster clerk at Cessnock Gaol allegation, the individual concerned has not been at Cessnock since 1995. The current roster clerk has done the job since 1998, and this person, Geoff Keltly, is the delegate also at Cessnock and has been for approximately the same time. So the delegates, the roster clerks and the staff all get on very well.

With regard to the Parklea escapes, those were in 2001. However, I refer to the department's replies to questions on notice where they showed that two of the five officers who faced action in relation to one of those escapes have now been promoted to senior executive positions. One is now manager of security. This is a deputy governor position.

The Public Service Association argues reforms are always occurring in this industry. We and our members have participated in these and contributed to the good records that now exist in the Department of Corrective Services. Ron Woodham is applauded by the government for bringing escapes down and for the good running and order in prisons. He achieves this with the co-operation of his staff. We ask the inquiry to compare that to recent current examples of bad practices in the private sector run industries.

I was seeking to table today a document which runs through some examples of bad practices in the private sector but on the way up here I noticed irregularities in that document. So I would ask if I could table that document by Friday.

CHAIR: Yes, that would be fine.

Mr TURNER: Thank you very much. This is not a comprehensive study but it shows that privatising these prisons may lead to increases in injury, mismanagement and even death.

With regard to the questions put to us on the last occasion - some were taken on notice - I would seek to table a document which addresses those questions. Some we are unable to answer as we cannot access the information, for instance exact staff numbers and prisoner numbers in each prison, but apart from that most of the answers are detailed and addressed in our submission to this inquiry.

With regard to the submissions on overtime and budget blow-outs, we refer to the department's own submission where they say they prefer to utilise overtime rather than creating permanent jobs. They say they will meet contingencies as they arise. One cannot budget for some of these, i.e. if a maximum security inmate has a heart attack that will lead to six overtime shifts per day in order to staff and keep that inmate in a hospital bed. They address this in their answers to questions.

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They in fact show that this figure alone has risen from 6 percent of overtime to 10 percent of overtime. The Public Service Association argues that for this figure alone one in ten occasions of overtime is meeting illness or injury. That is a huge figure not to be budgeted for.

Finally, I refer to the statement that they removed 107 inmates at Cessnock gaol because of the reduction of six staff at that gaol. Three years ago they wanted to reduce staff by 39 officers and increase inmate numbers from between 50 and 100. Six prison officers leaving Cessnock gaol was no reason to walk into a gaol in the middle of the night and remove 107 inmates.

Today we have two delegates from Cessnock here, Peter Williams and Tony Howen, who wish to address about the Cessnock situation.

Mr HOWEN: I would like to respond with a brief submission before we go to questions.

The prison officers that I represent here today extend their thanks for the opportunity to address this inquiry. In my opening submission I wish to clarify a number of statements made by the department that do not accurately justify privatising Cessnock.

In relation to the allegations against the Cessnock staff made by the Commissioner, we submit that the treatment of allegations as established facts is a total denial of natural justice to the staff of Cessnock and the age of these allegations means that they have no relevance to staff currently working at Cessnock.

The cost per day per inmate. We do not accept these figures are accurate as per our submission. We do not believe the 2007/2008 budget or the 2008/2009 budget represent an accurate picture of the cost of running Cessnock.

On the issue of reform, over the years the Cessnock Prison Officers Vocational Branch has negotiated a number of reforms within the operational agreement by way of annexures. This includes lockdown protocols, the Healthy Lifestyles program, conversion of a wing to maximum security upon the closure of Maitland gaol, changes to starting times and hours of operation for gaol industries and additional staff on CMB watch to reduce overtime usage from hospital escorts. Initiatives proposed by the Prison Officers Vocational Branch and not acted on by the department include the adoption of 12 hour shifts, the inmate working day staff protocol and the chemical agents protocol.

On the issue of overtime, as stated in our submission and supported by accompanying documentation, Cessnock does not exceed the allocation of overtime in the operational agreement. The Cessnock Prison Officers Vocational Branch has taken a number of measures over the years that have actively reduced the amount of overtime used, and other initiatives that were rejected would also have reduced overtime, for example video bail link. This subbranch wanted the position made a full-time position but the department insisted on it being manned on overtime. I have personally voiced my concerns to management of security at Cessnock, that they were in breach of the operational agreement by using overtime that was in excess of the agreed amount in 2007.

In relation to sick leave, 98 percent of the staff are in the best category of our sick leave policy. This entitles those officers to receive a letter of recognition every year. The fact that we have the longest serving officers in the State might elevate those figures. However, we have just lost a number of officers who have passed away with terminal illness and we have an executive officer who looks like being on sick leave until he retires. This may be the reason for the Commissioner's statement but it seems to focus on the two percent.

In relation to the issue of industrial disputation, Commissioner Woodham also states on page 14, paragraph 3, "Cessnock has a history of industrial disputation and a greater resistance to change". In the last ten years there have been three strikes of one day's duration. One strike came about because of fire hoses that had rotted away. This was after years of management refusing to follow fire inspection recommendations. The hoses were subsequently replaced. The second strike was in support of a State Prison Officers Vocational Branch directive over officers who were assaulted by inmates who were subsequently given concurrent sentences. The Prison Officers Vocational Branch wanted the inmates to be given consecutive sentences. This led to the Government changing legislation. The third was again a State executive recommendation that we strike over the privatisation of prisons and

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rally at Parliament House. There have been seven occasions when the local subbranch has initiated low level case management bans. However, these had safeguards built into them so they did not affect inmates who had urgent issues. The safeguards cover the department and officers in their duty of care responsibility. In all seven instances the department had breached its operational agreement and all seven times the department settled in the Prison Officers Vocational Branch's favour. The fact that the department could have had these issues arbitrated and chose not to gives weight to our argument that they were in the wrong and industrial action was justified.

Some untrue statements: Deputy Commissioner Maclean stated on page 17, paragraph 8, "When managers try to continue under present operation those industries are shut down on many occasions". Cessnock industries have not been shut down once in three years. In fact, the subbranch of the Cessnock Prison Officers Vocational Branch has a long history of being supportive of our industries. This support has included changes in the utilisation of service space to impact on industries last, exemptions from attending monthly union meetings for overseers struggling to fulfill contracts, streamlined let-go procedures to deliver inmate numbers to work locations more quickly and negotiations of hours and staffing for demountable industry for the Olympic contracts.

Deputy Commissioner McLean states on page 17, paragraph 7, that officers remained in wings where there are no inmates and those officers are called in on overtime. This has never happened at Cessnock and that can be proven by simply looking at monitor room daily muster numbers that record how many inmates are in the wings for a muster whilst other inmates are at work. The the Cessnock average has been 40 to 60 in each wing due to the fact we cannot supply enough work for all inmates.

The effect on Cessnock of this decision in relation to future employment. My research source, the Department of Education Employment and Workplace Relations 2008, released in September 2008, states that the Cessnock unemployment rate is seven percent while the average across the State is 4.2. Just recently 90 jobs have been lost at a Bonds factory, further disadvantaging this area. The SEIFA index states that the local government area of Cessnock is the most disadvantaged in the Hunter region.

Unfortunately, if this inquiry attends the Cessnock Correctional Centre the centre you will see will not be the vibrant centre it was two months ago, as the department has done everything in its power to show a poor example, with possibly two wings locked down and industries in slow motion. I doubt that you will see a shining example in June.

The Cessnock Prison Officers Vocational Branch believes that if this goes ahead it will be one of the darkest periods in labour's history for trade unions. Information in our submission supports our case that Cessnock does not deserve to be privatised based on the reasons that have been given. This leads us to the conclusion that this is about breaking our union only and not about any alleged savings to the public. This will deliver an inferior service to the people of New South Wales and it makes no sense to remove these highly experienced officers and replace them with inexperienced staff working for a multi-national, sending taxpayers' dollars overseas while damaging the lives of faithful employees.

In the hand-up that I am going to give for the Committee members, I just ask that any names in motions of meetings be taken out. Where there are green tabs on pages, they are the only pages you need read. We just tabbed certain sections to save you reading it all. The hand-up we are tabling provides documentation that shows the long-term working relationship has not been as bad as our Commissioner has portrayed in sections 1 and 2 of this hand-up. Section 3 shows that the Cessnock Prison Officers Vocational Branch is pro-active on a number of initiatives. Section 4 shows our long held stance on full-time positions over overtime. Section 5 shows the department's long history of not being able to abide by its operational agreements. Section 6 shows the history of support for the smooth running of our industry. Finally, section 7 shows the department's industrial relationship deficiencies.

The Hon. JOHN AJAKA: Gentlemen, my question is directed to any of you. I will leave it to you to decide who. I go to the issue of employment that was raised by Mr Howen. Commissioner Woodham said in his evidence - and it was almost identical to the evidence given by the Minister, the Hon. John Robinson, today in the house - that correction officers will be given three choices, if I

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understand how they put it. The first choice is to take redundancy; the second choice is they can transfer to another prison; and the third choice is that they will assist the officer in applying for work with the new operator. Would any of you like to comment in relation to that? Does that resolve the problem of the employment issue?

Mr TURNER: It does not resolve it at all. If someone takes redundancy it is not necessarily a good thing for them into the future. They might have children at school, family around, sporting activities, their wife or partner might have another job in another industry and therefore they might be forced to take redundancy rather than move out and lose all of that support from their community. Taking another job in another prison is at least a backstop, and we would put it only as high as that. It still means they have to move out of their community, move away from support structures and potentially break up their children's schooling. If they want to stay in the public sector they must elect to transfer. At Cessnock many of them are longer term staff, who are in the old super schemes. They must stay within the public sector to protect that super scheme, so they must transfer to do that.

Finally, transferring to the new private sector employer, the Government is claiming savings in privatising. Those savings must be achieved by having less staff and paying them less money to house more prisoners. So to stay in your area and to stay in employment you may be jeopardising your super scheme, you could be jeopardising your long-term employment. Commissioner Woodham gave evidence last Friday that the only protection given to these staff would be protection of salaries and employment for one year. So beyond one year they have no certain future if they stay.

We say all three options are worse than allowing this gaol to stay open in Cessnock and continue to be staffed and the Public Service Association remains absolutely committed to working with the department to ensure that it can benchmark against any private sector activity anywhere else.

The Hon. JOHN AJAKA: It is implied by the department that there has been - I get the impression - considerable consultation with you. Could you please indicate to us your view in relation to consultation or lack of consultation?

Mr TURNER: On privatisation per se or the whole issue?

The Hon. JOHN AJAKA: On privatisation firstly at Cessnock, then Parklea and then per se.

Mr TURNER: We say there has been no consultation effectively. We have tried to consult on keeping these prisons in public ownership and we keep getting a flat no. It is blamed on the Public Service Association and the Prison Officers Vocational Branch for why these privatisations might occur, and I think I gave a statement on the last occasion that in 2003 the Government said that unless we come up with new agreements we will have to privatise the three new gaols at Kempsey, Dillwynia and Wellington. The Public Service Association entered into a consent award which Mr Woodham called island agreements for those centres but the Public Accounts Committee, I think it was, of this Parliament found that Kempsey runs cheaper than Junee and more effectively. So we say they are good agreements.

We then, within the currently publicly owned prisons, reached new consent awards for the governors and for the commissioned officers, so two of the three levels remaining. That was all done under what the Government and the department calls "The Way Forward". We have asked, ever since those last two awards were done, for documentation on "The Way Forward" for the Prison Officers Vocational Branch. We only received that documentation on 18 August last year and since that time we have attempted to be in consultation with the department on putting those in place, but we say we can put most of that in place.

The so-called Parklea agreement, which they say they consulted on and then we rejected, we have said we will implement next Monday if they want to implement that in Parklea. So we say there has been full consultation on "The Way Forward" and we stand committed to implementing that. There has been no consultation on the privatisation or finalising that process or finalising that process for prisons.

The Hon. JOHN AJAKA: If there is correspondence or documents that relate to your last answer, are you able to table that before the Committee?

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Mr TURNER: We could table the document that came to us on 18 August and we say that was the first time we got a formal document from the department on the way forward for the Prison Officers Vocational Branch area of prisons. We can table that.

The Hon. JOHN AJAKA: I invite you to do so in due course, by Friday of this week, if that is possible. Would that be possible?

Mr TURNER: Yes.

The Hon. JOHN AJAKA: Mr Howen I think has been at every hearing so far, so he may know where I am going next. I am sorry, I will not direct these questions to you, although you might have some input.

It seems that we spoke a lot of about island agreements in regards to various new prisons. What has not been really spoken about in terms of changes in work practices or negotiations has been the issue of prisoner transport and the like, officers involved in escort and the like. Have there been negotiations dealing with the work practices affecting those staff members?

Mr TURNER: No, there have not and we did not even know there were any concerns about it. I think Mr Woodham's evidence was that we are doing it better than the police did it before. Corrective Services only took that over in the mid to late 1990s.

The Hon. JOHN AJAKA: But you and I both know that that was because the Police Commissioner was putting on yike over all these blokes not being on the street.

Mr TURNER: That is right.

The Hon. JOHN AJAKA: It was not about the quality of the transport, it was about police officers being off the street.

Mr TURNER: And no-one has criticised or in fact many have said that the quality of the transport is now better performed than it was when it was under police alone, but Mr Woodham I think even gave evidence last week that with more staff and more infrastructure he could do it even better. The difficulty is that correctives do it and police do some of it, so there is some interplay at the moment.

Mr BINDLEY: My comment on that is that some time ago Mr Woodham engaged Mr Ken Middlebrook to go around Australia and do a survey/study as to how we could improve our transportation of inmates. Mr Middlebrook did that, he went around Australia, and the answer that he came back with in short was we do it the best.

The Hon. JOHN AJAKA: How did you find out about that?

Mr BINDLEY: I have been told that by a number of high ranking officers within the department.

The Hon. JOHN AJAKA: Have you been provided with any documents in regard to that issue in terms of prisoner transport?

Mr HOWEN: I can speak to that. I was on the State executive at the time, as I was at the time we brokered the agreement to save that two goals that Mr Woodham talked about for 12 hours and I was president at a consultative meeting when Ken Middlebrook addressed that meeting and told us exactly that. It was some time ago but he told Matt Bindley that that was case. Ken Middlebrook is renowned in our department as being someone who can save a dollar.

The Hon. JOHN AJAKA: You obviously are all aware of the suggestion that escort services, if I can describe it that way, will be privatised. What is your view of the impact, both on prisoner transport and related issues, of court security and the like?

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Mr BINDLEY: It is a major concern when you look at the aspect that we have got staff spread vastly around New South Wales who have created lifestyles, again a similar situation to Cessnock staff. They will be moved back to wherever the department can place them, but not only that, we have got a very good working relationship with the New South Wales Police where in some remote locations, on a night shift for argument's sake, we have only one staff member on when we have got inmates in the cells and what actually happens is that the police officer in the station assists our people if there is any type of problem, and in a similar respect, if they have police out on the streets, our people will actually help the police officers in the station. So I suppose it is a bit of a marriage that suits both parties at the time. I know that there are great concerns that the job will not be done as well if it does go to the private sector.

Mr TURNER: The documentation which we will table on Friday shows how there have been failings. Western Australia at the moment currently has an inquiry into the death of a prisoner who died during private transport because they broke the regulations on how to transport prisoners.

The Hon. JOHN AJAKA: I think we have some material on that. I suppose one of the things I look at in terms of the evidence is that we have spent a lot of time talking about overtime. I cannot speak for the rest of the Committee but I have not been particularly overwhelmed by the strength of that evidence in terms of overtime being the motivator of this. I assume that all of you had access to the transcript, and if you did and looked at Mr Lawrence's evidence that was given last Friday, you will see that in the Western Australian experience in terms of the gaols, the one thing that he points to is a side benefit, I think he would have said, to the privatisation of Acacia, that particularly under its current operator there have been significant cost savings in terms of the operation of the gaol.

If I were to assume that that actually is the motivator for why they are looking at privatising Cessnock and Parklea, as opposed to overtime issues and all the other things that have been talked about ad nauseam, how do you respond to the fact that there is a limited budget in Corrective Services, that there seems to be a growing prisoner population and somehow these people have to be housed within that limited budget?

Mr TURNER: The mini budget states that if they proceed with these two privatisations, all of the privatisations, the two gaols and transport, et cetera, they will save \$1 million this year, \$9 million next year and \$16.1 million the year after continuing. We say, and we have said it to the Minister and we have said it to the Government, that we believe we can help introduce reforms that will save the Government more than that. The Prison Officers Vocational Branch has a document, which they prepared for "The Way Forward" before the department served their document on us, which says that if those reforms are implemented in the gaols they will have significantly more savings than that, and we can do that, keep these gaols public and keep them running well and providing a good service.

The Hon. JOHN AJAKA: If there is such a document that identifies ways of saving money in the system, are you prepared to table that document?

Mr BINDLEY: Yes.

Mr TURNER: Yes.

The Hon. JOHN AJAKA: Can that be done by Friday as well?

Mr BINDLEY: Yes.

The Hon. JOHN AJAKA: This is not meant as a criticism, but has that document ever been tendered to Mr Woodham?

Mr TURNER: Yes, that document, as I understand it, was given to management at Parklea during the negotiations to reach that agreement that they say was reached and never implemented. Matt Bindley was telling me yesterday or the day before that we could go even further than that and probably save even more money than was envisaged in that document. The Prison Officers Vocational Branch tabled that document during those negotiations and it was tabled in a way that that document

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could be applied to all gaols, not just Parklea.

The Hon. JOHN AJAKA: That probably answers my next question. It is not Parklea specific I take it in terms of the changes. I take it it relates to changes in work practices, does it?

Mr BINDLEY: The basic fundamental of change in work practices can be rolled out across the board but the problem with it is that places differ to each other, so there would have to be discrete changes made to suit the location and the purpose of what the department wants to achieve in each institution.

Mr TURNER: Generally there is an award that applies to prison officers and then there is an operational agreement that applies in each gaol which meets the environment of that particular gaol, depending on whether it was built in 1840 or 2009. We are prepared to renegotiate the award to make it more flexible and meet some of the types of areas that were reached for the island agreements, and the department wants to move away from operational agreements and put in place management plans. We commit to doing that. We can do that.

Mr HOWEN: In relation to Cessnock, one of the things that has never been stated at this inquiry is the length of the day that Cessnock operates. Cessnock has a four shift regime, whereas other gaols have three. So we are letting the inmates out from six in the morning to late at night so they can work in industries and attend educational programs, et cetera, and we are being compared to gaols that run three shifts. We have got the value added stuff at Cessnock, which is programs in the afternoon and teaching the inmates usable trades and skills, crane driving certificates and that, in a two phased part of day, and we are being compared to say Junee that is just on a straight 12 hour shift. I have argued, and I have put it to Ron Woodham numerous times when I was on the State executive, if you are going to keep knocking us and comparing us to Junee, compare apples with apples, put us on a 12 hour shift, compare us with Junee that is on a 12 hour shift, but let's get away from this nonsense of just coming down here making statements but not going the rest of the way and giving the full facts, that Cessnock has a four shift gaol, has inmates out longer than Junee and it cannot be compared on that basis. We value those things. We run programs that Junee does not. We have work in industries that teach inmates the discipline of going to work and getting something they can use rather they cannot use and go out there with a far better chance for society of them not re-offending.

Joan Andrews made the statement if it is all about cheapness, well everything that is cheapest is best, and that is not what prisons is about, and nor should it be.

Mr WILLIAMS: Further to that, one of the big issues for us is that the department chooses to give us a certain rank structure in our gaols which makes us less cost competitive. That is fine if that is the direction they want to take us, but it is not fair to constantly benchmark us against organisations that run much leaner at the top. They should make up their mind which they want. If they want the cheaper system, then they should mirror that system, instead of expecting us to compete with people who do not have that rank structure.

The Hon. ROY SMITH: In respect to the island agreements in regard to Kempsey, Dillwynia and Wellington you indicated that the department negotiated with the unions, and Commissioner Woodham is on record as saying right up to the 11th hour that if the island agreements were not established he would operate those prisons privately, but agreement was reached and these island agreements were put in place. Is that the case?

Mr HOWEN: I was on the State executive at that time. We had concerns that the department had pulled away from the normal negotiation process that they had with us. We went down to Ron Woodham's office. It just so happened to be the 11th hour, and he informed us, in fact he showed me the proposal that he was going to privatise the gaols because the Prison Officers Vocational Branch, in his words, rejected work place reform. The Prison Officers Vocational Branch said to him - this is myself, Paul Jones and Brian McCann - that we have not rejected reform and his opinion was that he expected that if the Commissioned Officers Vocational Branch rejected it, so would we. We then brokered an award and we called down all the delegates for an emergency meeting, without telling them what it was about, because we did not want any scuttlebutt going around, and we asked them to vote on that award reform, and that is how that came about and then Ron comes down here and brags about how it happened. If we hadn't walked into his office that day

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he would have privatised the gaols, and that concerns me, that there is an element of secrecy, that out of the blue came an announcement, when we never knew that we were up for privatisation, that we did not embrace reform.

Mr TURNER: This is really how you get to an end point here. We made it to the end point, we got a consent award which covers those three new prisons. The department liked it, we agreed to it and it makes those prisons run cheaper and leaner.

The Hon. ROY SMITH: I did ask the Commissioner the same question that I will ask you. At any point in the negotiations over the recent years in respect to Cessnock or Parklea was the union told that if an agreement could not be reached the prisons would be privatised?

Mr HOWEN: That is an emphatic no.

The Hon. SYLVIA HALE: Mr Howen, I would like to return to the issue of cost savings. I noticed in your submission you say that in the budget for Cessnock in 2006/2007 there was a \$90,000 deficit but a year later it approached almost a \$2.8 million deficit. Did the department ever inquire into the reasons for this blow-out or do you have any explanation for it?

Mr HOWEN: I have none at all because if you look at the history, that is why those figures are confidential to the inquiry, for the previous ten years probably the gaol, and it still runs today no differently, was coming in on budget. There was a variance of about \$90,000 and that is quite easily explained by the variations in the rank structure. At the time all ranks up to deputy superintendent were given the opportunity to work overtime and the variance is that the rate that is paid is always above the funded rate. They fund it at say \$37 but it was always paid at a higher rank. So over a year, with the amount of shifts of allocated overtime, that was allocated because of the shortfall, that variance was \$90,000, but in terms of hours worked it was always on target. What happened to bring it about, in the budgets as you can see in the later years, if we go to the first one, the incomes were stripped away but the cost streams were put back to the centre, so all of a sudden we go into deficit.

The Hon. SYLVIA HALE: Which means your income is restricted.

Mr HOWEN: If you look at the first table for 2007/2008 you will that see there is nothing there for the overtime budget allocation, whereas before that it was \$877,000. If you look at things performed like video bail link, where we insisted on it being a full-time position, they insisted on it being funded on overtime. There was never any budget given to the centre. Even though the department bills the Attorney General, it will bill them somewhere else, but the cost of performing that overtime is billed back to Cessnock and the money that was generated by industries always came back to the centre to offset costs of running those industries. Again, the costs were journalled back to the centre but the profits were sent somewhere else and so on and so forth.

That is why we say that here we have a gaol that has been running consistently for the last ten years, nothing has changed. Perhaps the only thing that has changed is that we have been given an extra second-in-charge, and I do not understand that to this day, that nothing has changed but here we go from \$90,000, which is easily explained, and in terms of hours of allocation, spot on \$2.8 million. You would have thought two things were applying here, either this was deliberately done to achieve an outcome or there should have been some auditor brought in and some investigation as to where this \$2.8 million has gone, and that is the basis of our submission. If you look closely, and I do not have that expertise, but I have had people to look at those figures who have accounting expertise, you can quite easily see what has happened here. There has been a bit of a cooking of the books you might say.

The Hon. SYLVIA HALE: A sort of artificial of manipulation of the outcome?

Mr HOWEN: Nothing has changed at Cessnock in the last 12 years and all of a sudden we are doing nothing different and we are \$2.8 million in the red and that is what those confidential figures should show.

Mr WILLIAMS: Could I just add something to that. There would be one change. I think the executive salaries were annualised. They were no longer doing overtime. The significant thing in the 2007/2008 budget is that we actually used \$400,000 less on overtime than we did the year before and

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we are nearly on budget. We have got no explanation for how we could blow out to \$2.8 million in the red.

The Hon. SYLVIA HALE: How did you do less overtime?

Mr WILLIAMS: We just used less. We had less hospital escorts. That was one of the big ones blowing it out. We got more staff, so there was less A1, which is the basic salaries paid. There was just a number of factors in those different types of overtime that brought the figure back down. So we used less overtime and somehow we blew the budget by \$2.8 million. It is inexplicable.

The Hon. SYLVIA HALE: As union delegates I gather you have certain responsibilities under the occupational health and safety legislation. Do you have any comments to make about the department's view of occupational health and safety issues?

Mr WILLIAMS: As delegates, health and safety responsibilities are very serious for us and that goes from negotiating things like operational agreements, because overtime to us is about workplace safety. As a subbranch we have always preferred to get the body and the reason for that is the body fills the whole gap. If you convert that salary into overtime, because of the higher rate of pay for overtime, it only fills half the gap. So when you do an operational agreement, it is hard nosed negotiating because you know that if you get the numbers right your members go home alive at the end of the shift and we have not lost any of our officers to having been murdered during the course of their duties.

I am aware that since the 1960s two prison officers working in minimum security gaols were murdered during their job. We also have a maximum section and about once a decade we lose an officer. So when you do agreements you make sure that you ensure safety and the role after that is a monitoring role to ensure that the department complies with what they have agreed to. The hand-up we gave shows quite a history of management at various levels not being able to keep their word.

It always translates back to safety. We have health and safety committees that look at things like cracks in the pavement and various things that may be serious but I cannot ever remember a prison officer being killed by them. Of all the serious casualties in our job and even in the workshops, I cannot remember anyone being killed in them but we have had some accidents that just come with running any industry. The greatest threat to our people is the inmates we manage and if we do not get agreements and staffing levels right, then we compromise that, we run that risk. So as delegates we have done everything we can, and to be delegates we couldn't do any less and be doing our role correctly.

The Hon. SYLVIA HALE: The department claims that in order to improve safe working conditions for officers, that it wants to introduce a system of rolling let-goes.

Mr WILLIAMS: Yes, we are familiar with the term.

The Hon. SYLVIA HALE: I understand that they open the cells in one area and everyone--

Mr WILLIAMS: Yes, you move from area to area.

The Hon. SYLVIA HALE: --and open them in session, and they are saying that this will allow for a safer working environment and if this practice is adopted that they will be able to reduce staff while maintaining a safer working environment. Would you like to comment on that?

Mr WILLIAMS: We have never agreed with that. That sort of system may have some benefit in a prison system where you are taking inmates out of cells, putting them in yards and leaving them there. Cessnock has always been a working gaol. There is no history at Cessnock of any high level of risk at let-go and lock-in. In fact there has probably been less happened over the years. We have had a number of inmates murdered over the years and it has happened during the out of cells hours.

If the department or local manager were serious that they thought rolling let-goes and lock-ins were an improvement to safety, they could do it with the existing staff and when that was

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suggested to them, that seemed to upset them because they seemed to want to withhold it and use it as a bargaining chip, let us take 39 people off you and we will introduce a safer system of work, but that safer system of work was in no way dependent on reducing the staff. It could always have been done with the existing staff.

Mr BINDLEY: Just before you move on from that, what I will add is that whilst we are not in favour of rolling let-goes per se, what we do is that we do them as a saturation let-go in a lot of institutions. We try and get as many staff--

The Hon. JOHN AJAKA: Could you explain that last comment?

Mr BINDLEY: It is a saturation let-go. We try and get as many available staff that are on duty at a given time to go to areas that are being let go, so that we have got a lot more numbers than we may previously have had. We learnt by our mistakes over previous years where we did let-goes and lock-ins with probably not as many staff as we could have, so what we have in fact done is we have pinpointed those times on the let-goes and lock-ins and had more staff to put there to be able to respond.

What happens with those, instead of having people in places that do not have a great deal of inmate contact in the accommodation areas, they actually come from wherever they are and they assist the staff with the let-goes and lock-ins. It puts more confidence in the process that is happening and it also gives a very clear and distinctive look to the inmates that there are a lot more of us there to contain any situation that may happen. The last serious incident that happened in a maximum security gaol was in Goulburn. It was on a lock-in where inmates actually attacked the staff and that was also partially why changes had to be made.

Changes get made all the time in relation to these type of things. We have never said that we do the job perfectly but fortunately we do learn by the mistakes that sometimes do happen within the department and we progressively make them better every day, so that not only these mistakes are minimalised but they are stretched out and they happen a lot less than they used to do.

Mr TURNER: If I can just add to that, we are prepared to negotiate and discuss anything at any gaol. That is the whole purpose of operational agreements. Some practices may work in one gaol but not in another and that is why you have gaol specific operational agreements which suit that local environment. That is why the privatisation of prisons normally would not occur in new gaols because you can build those gaols very specifically. At Kempsey one officer alone in a cell fight can release all the prisoners out of the door and sorry to use this term but they could herd up the fence line and that person in the control room, when they get to the end of that fence line, could open that gate and shut it behind them and you could move prisoners right around the gaol without necessarily having to have them escorted, whereas in the old gaols like Grafton that sort of thing is not possible. So we are prepared to negotiate anything and do anything within an operational agreement as long as it is done safely for the officers on duty.

The Hon. SYLVIA HALE: I gather what you are saying is that it is possible for someone in the control room to allow, with the technology in a new centre, for people to move in and out of their cells. What does that do to the culture within a gaol where there is that sort of minimal contact between staff and the inmates? Does that make for a better gaol or worse or does it have no effect whatsoever?

Mr BINDLEY: I suppose ultimately it keeps the price down of running the gaol but as far as the interaction between staff and inmates, obviously it is a lot less on a face-to-face basis over a shorter period of time. I do not think there have been any proven statistics as to whether or not this model is more effective than the old model where there was more interaction. I suppose time is going to be the big indicator of that when it does come around. I just think it is a very hard question to answer on the surface.

Mr HOWEN: In terms of inmates, I will add that at any time when there is no presence of custodial staff it does put them at a greater risk and creates opportunities for them to be assaulted. So from their point of view they probably do not like it as much.

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The Hon. SYLVIA HALE: In fact it is a great opportunity for inmates to be assaulted.

Mr HOWEN: Yes, they prefer to see a blue shirt.

Mr WILLIAMS: One of the issues with Cessnock is that if we just turned it into a push button zoo, that would be getting away from the role of what a minimum security gaol is supposed to be. We are supposed to be trying to return these people to society. That is where 98.9 percent of them will end up. So we do interact a lot with our inmates. That is the nature of the institution, and one of the advantages that it has, because there is such experienced staff, and a lot of our inmates do come back over the years, they also get to know the staff, and they do value that greatly over what will occur if there is suddenly a whole lot of new faces there.

Mr Woodham is very critical of the culture of Cessnock. I think the Cessnock culture is actually a very good culture, in that people with long years in the job work out the best way of doing their job effectively for themselves and you try to be yourself and not be somebody else. The inmates actually respond to that very well. We manage that place with far fewer problems than you would expect. In fact, at times I used to worry that it had been quiet for so long, that something was bound to happen, how long could this last. Then I started to realise this really does come down to how the people are managing the inmates, because when I joined the job, the staff were very inexperienced. I started at Long Bay and within 16 months of joining I had 63 names after me on the roster and it was a very volatile situation. The staff did not know what they were doing and the inmates got very frustrated by that and the staff were all full of testosterone and trying to prove themselves to each other and it did not make for a good place to work.

The Hon. HELEN WESTWOOD: You have talked quite a bit about "The Way Forward" and also about the existing management at Cessnock, the operational agreement and the award. Can you tell us what components of the operational agreement and the award will change as part of "The Way Forward" as you understand it?

Mr BINDLEY: What we have suggested is that we recognise that we need to have a good look at our staffing structures. The ratio of middle management to the coal face workers in a place like Kempsey is vastly different to everywhere else. I think they are the things we need to look at. We do need to have a look at our award, compare it to the island agreement award and see if we can marry them together as one award. We also need to look at how we go about doing our job and see if we can finetune that a little bit, but whilst keeping it safe, make it more cost effective. It is also in line with accepting certain changes that are happening within the department.

The Hon. HELEN WESTWOOD: You described how the award and the operational agreements are relevant to each facility. Will "The Way Forward" have the same structure as that?

Mr BINDLEY: "The Way Forward" at a place like Kempsey will be vastly different than it would be at a place like Cessnock, because they are built very differently. Cessnock is a much older institution and the difference with Kempsey is that it was built, as we all know, very recently, five years ago, and it was designed in a fashion that it was less labour intensive because modern technology had come on in leaps and bounds since Cessnock was built. So the labour intensive side of it is not as great as it could possibly have been. That creates a situation where with less staff, less salaries, obviously it is more cost effective. They run on an operational agreement that enables them to do things like when inmates go out of the wings and staff are not retained there, they work on core fundamental shifts. They are all the types of things we need to look at and see if they can be adapted into these other places.

The changes in the Parklea agreement were that we look at things like work practices and what posts were filled at different times of the day, the staffing numbers, the ratio of staff to inmates, the amount of overtime that was used, how we could curb that and not use as much, have a look at how industries runs in comparison to the starting times of the custodial staff so that it could be more efficient than it possibly is at the moment. That also goes in line with what I spoke about before, the saturation let-goes and just making the place safer in general.

The Hon. HELEN WESTWOOD: Has the operational agreement been renewed or renegotiated from time to time? Could you give me some idea of the last time the operational

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agreements at Parklea and at Cessnock were renegotiated?

Mr BINDLEY: At Parklea and I think generally across the State they probably have not been renewed as such for a period of near ten years. The problem has been that ever since the introduction or the suggestion of "The Way Forward", and going back as far as 2002/2003, the department has maintained the ideology that they will not negotiate operational agreements because "The Way Forward" is coming and there are going to be changes introduced across the board. As we all know, it now being 2009, the department still maintains this attitude that change is coming and we are not going to negotiate operational agreements until such time. So they have not been updated across the board for ten years. I do know that there have been annexures that have been updated but as far as being re-evaluated as a full package, no, it has not happened.

Mr WILLIAMS: I will speak to that on Cessnock. We have always kept our operational agreement up-to-date and it is interesting that some of the reforms that the department has initiated, such as about six years ago there was a restricted movement protocol. Actually Tony Howen drafted a very good restricted movement protocol. It is in that hand-up. Ian McLean is quite glowing in his attitude towards that. Then it just petered out. The department sometimes initiates reforms and does not carry through on them and that cannot be slated back to the individual subbranches. For us, as just ordinary prison officers, industrial relations is not that easy but we have never been unwilling to participate in that process. There have been times in the past that the department has come along and said we want to change things. We sit down with them, we do the original meetings, we start moving towards there and then it just disappears into the ether.

Mr TURNER: In terms of "The Way Forward" the department has said to us they want to abolish operational agreements and move to things called management plans. The Public Service Association and the Prison Officers Vocational Branch have been co-operating in that move and there has just been almost a three week tour to every single gaol to explain it and put that in place. We are confident that can put in place with this.

The Hon. HELEN WESTWOOD: Do you know how they will differ from the operational agreements?

Mr BINDLEY: Yes.

The Hon. HELEN WESTWOOD: What is the substantial difference between the operational agreements and the management plan?

Mr BINDLEY: Operational agreements were very structured. They clearly illustrated to everybody what was to happen in relation to different aspects of the correctional centre, i.e. staffing levels, inmate activity, staff activities, how many inmates were to be held in each wing, the number of staff, the starting time of staff. So as you can see they were pretty intensive and detailed, whereas the management plans just give the basic fundamentals of you will have X amount of inmates, X amount of staff and on any given day management will do what they want.

Mr TURNER: It allows the manager of the day to do something differently today than he or she did yesterday depending on who turns up for work.

The Hon. GREG DONNELLY: Can I take you to pages 14 and 15 of the Public Service Association's submission where you have a comparative table. It is a table of the award, "The Way Forward" instrument and what you understand to be what operates at Junee. Do you see that?

Mr TURNER: Yes.

The Hon. GREG DONNELLY: If you go down the page and then you go over the page, and I am looking at the second and the third columns, comparing the award with "The Way Forward" instrument, the only difference between the two is essentially, in fact only, in the overtime arrangement. Do you understand what I am saying?

Mr TURNER: Are you talking about between all public gaols but "The Way Forward", the three island agreement gaols versus--

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The Hon. GREG DONNELLY: Yes. I am comparing column 2 with column 3.

Mr TURNER: Yes.

The Hon. GREG DONNELLY: You will see the only difference falls in the area of overtime.

Mr TURNER: No, because if you are comparing columns 2 and 3, there are differences in almost every column. If you are comparing 1 with 2--

The Hon. GREG DONNELLY: Are you looking at this table?

Mr TURNER: Yes.

The Hon. GREG DONNELLY: The first column is the condition. Column 2 is the award.

Mr TURNER: Sorry, yes, okay.

The Hon. GREG DONNELLY: Sorry if I am not being clear. And column 3 is "The Way Forward" instrument.

Mr TURNER: Yes.

The Hon. GREG DONNELLY: What I am saying to you is that in looking at columns 2 and 3 under the headings listed in the first column, the only area of difference is in the overtime clause. Would you agree?

Mr TURNER: Yes, but there is not in effect any difference. The three new gaols have a flatter executive, what was known as the commissioned officers structure, and they have a flat rate of overtime for what is known as the Prison Officers Vocational Branch officers. So it is not just the overtime but how it is worked and who does it when.

The Hon. GREG DONNELLY: This was my question actually: If you just look at the paper you will see this overtime as being the only difference, but I am trying to tease out if there is more than that.

Mr TURNER: Yes, there is. Conditions fundamentally stay the same because they are still public sector workers, so most of their conditions stay the same, but in the three new gaols the commissioned officers structure is slightly flatter and there are less of them. Then the Prison Officers Vocational Branch equivalent officers in the three new gaols work a flat rate of overtime when they work overtime and how the lock-downs and everything occur is slightly different as well. So what occurs around non-attendance at work as opposed to just overtime per se is different.

Mr HOWEN: Could I just add, to offset that flat rate of overtime in that award that covers Kempsey, Dillwynia and Wellington, officers have a greater array of options. They can cash in annual leave, they can cash in their rostered days off, therefore giving more bodies back on the ground and get them the week before Christmas. So to offset the flat rate of overtime they have better award conditions. So if they want to cash in some rec leave the week before Christmas to take their children on holidays, that is an option they have that we do not have in the older gaols. It is a very attractive package and in fact if you looked at it across the board some of the award conditions are superior to ours, except for the overtime.

Mr TURNER: I have not contradicted the table. I have just explained it.

The Hon. GREG DONNELLY: Indeed, exactly.

CHAIR: We have run out of time for questions because we need to have a short deliberative meeting before we go back into the chamber. I would like to thank you very much, Mr Bindley, Mr Turner, Mr Howen and Mr Williams, for coming in here today and we look forward to receiving the

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further documents from the Public Service Association, which I am sure will be helpful. This is the final public hearing that we will be having and we will be making visits to Cessnock, Parklea, Dillwynia and also to Junee.

(The witnesses withdrew)

(The Committee adjourned at 2.20 p.m.)