

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE No. 3

INQUIRY INTO THE PRIVATISATION OF PRISONS AND PRISON-RELATED SERVICES

Corrected proof

At Sydney on Monday 23 February 2009

The Committee met at 9.00 a.m.

PRESENT

The Hon. A. R. Fazio (Chair)

The Hon. J. G. Ajaka

The Hon. G. J. Donnelly

Ms S. P. Hale

The Hon. T. J. Khan

The Hon. R. A. Smith

The Hon. H. M. Westwood

CHAIR: Welcome to the first public hearing of the inquiry into the privatisation of prisons and prison-related services. Before we commence I will make some comments about procedural matters. The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. In accordance with these guidelines, members of the Committee and witnesses may be filmed or recorded but people in the public gallery should not be the primary focus of any filming or photographs. In reporting these proceedings, the media must take responsibility for what they publish or what interpretation is placed on anything that is said before this Committee.

Committee hearings are not intended to provide a forum for people to make adverse reflections about individuals. The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings and I therefore request that witnesses avoid the mention of individuals unless it is essential to address the terms of reference. Witnesses, members and their staff are advised that any messages should be delivered through the Committee clerks or the attendants. I would ask everyone, including the people in the public gallery, to please turn off their mobile phones.

You may be aware from media reports that the Committee invited the Minister for Corrective Services to attend today's hearing, however the Minister is unable to attend. The Minister has advised that he is available to answer questions in the Legislative Council When Parliament sits, and that senior representatives from the department will be giving evidence here today.

IAN RUSSELL McLEAN, Deputy Commissioner, Offender Management and Operations, Department of Corrective Services,

RON WOODHAM, Commissioner, Department of Corrective Services, and

GERRY SCHIPP, Deputy Commissioner, Corporate Services, Department of Corrective Services, sworn and examined:

LUKE GRANT, Assistant Commissioner, Offender Services and Programs, Department of Corrective Services, affirmed and examined:

CHAIR: Commissioner Woodham, do you wish to make an opening statement?

Mr WOODHAM: Yes. As the Commissioner for the New South Wales Department of Corrective Services it is my responsibility to protect the community, protect my staff, and protect offenders to the best of my ability. I also have a responsibility to operate a correctional system in an economical and efficient manner. As a senior public servant I am required to implement the decisions of the Government.

In the case of the Government's recent decision to place the operations of the two New South Wales correctional centres out for tender, the Government has acted on independent advice emerging from a market-testing exercise that was oversighted by New South Wales Treasury. I understand that this advice was that, on balance, it would be cost effective to contract out the management and operation of Cessnock and Parklea correctional centres.

I am not surprised by this outcome, by the way, and as we have had more than 15 years experience in contracting out correctional services in this State and have observed that the private provider can adopt work practices, technology and staffing structures that enable them to achieve effectiveness without compromising the effectiveness of the safety of correctional services.

One of the attractions of private sector participation in prison management is that a poor performer can be penalised or replaced. Critics of prison privatisation have tended to raise three types of complaints: firstly, that it is wrong in principle for the State to privatise prison services because they remain the State's responsibility; secondly, that service delivery will inevitably suffer, as the contractor will strive for profit above service; and, thirdly, that there is a lack of transparency and public accountability.

The first criticism is a matter of opinion. While it is reasonable for people to hold different views, this part of the debate is essentially irrelevant to this inquiry, as we already have a private prison operating effectively and it is here to stay for the foreseeable future. I will go into more detail later. It is also misdirected, at least in New South Wales, where it is clear that the State retains ultimate legal as well as moral responsibility. The best way to express it is that the State has not—and I stress not—contracted out its responsibilities but has simply contracted in certain services.

Research demonstrates that the second criticism—that the quality of service will inevitably suffer under private prisons—does not withstand scrutiny. Worldwide, the experience has been that the private sector is just like the public sector, in the sense that it is capable of running good prisons, bad prisons, and anything in between. Internationally, the best private prisons are undoubtedly offering cost-effective, high-quality service.

One can dispel the view that privatisation leads to a lack of accountability. It is no coincidence that the best private prisons are usually found where strong accountability measures are in place. In New South Wales, a full-time monitor is in place and submits monthly reports to management and annual reports to the Parliament. Additional monitors will be in place to monitor Parklea and Cessnock correctional centres. It can be said that the expectations of the public sector prisons are less clear and less robustly monitored.

If a private operator had to run their prisons the same way as some of the public prisons have been operating in the past, they would almost certainly have been put out for re-tender. For some time discussions have taken place with the unions in relation to reforming work practices in corrective services. The Way Forward is not new. The Way Forward is something that was not drafted overnight. The Way Forward workplace reform package was first discussed in early 2003 and was expected to be completed by 2005.

My management team and I understood that correctional officers would resist reforms put forward by the department. As time went on, The Way Forward was reworked, until it arrived at its present form in late 2008. Consultation between senior management and the unions, the Commissioned Officers Vocational Branch and the Prison Officers Vocational Branch [POVB] has been ongoing. During this process two large correctional centres were constructed, on the mid-North Coast at Kempsey and the women's Dillwynia prison at Windsor. Privatisation was considered at these two correctional centres and it nearly went ahead. However, a last-minute agreement was reached with the Prison Officers Vocational Branch that the mid-North Coast correctional centre and the Dillwynia correctional centre would remain in the public sector but under more economical and efficient routines, which were aligned to The Way Forward. These agreements are known within the department as island agreements.

The department reached an agreement with superintendents which saw a number of routines implemented, including the clustering of correctional centres and the deletion of 11 superintendent positions. Both parties were satisfied with the final outcome of the process. With the commissioned officers, it took three years to reach an agreement with this group of executive officers. The final outcome was that overtime and penalty rates were rolled up into a salary package in return for significant workplace reform, including the deletion of 54 positions.

The prison officers' negotiations then began in earnest with the Prison Officers Vocational Branch about implementing the final phase of The Way Forward. A special forum was convened over a period of three days with the Prison Officers Vocational Branch in October 2007. A number of working parties followed from this forum, however no real progress was made in most of them. Senior managers of the department formed the view that the POVB had adopted the attitude that we could privatise anything that we would build in the future, however we could not touch one position or one dollar in the correctional centres, which were not under private contract or an island agreement. Meetings with this group have developed into the POVB being argumentative and demanding on nearly every point on any documents presented in relation to reform. Prior to the planning stage of Wellington prison, the POVB also agreed to an island agreement at that location.

I would like to point out that some officers elect not to work overtime; some others are only there for the dollar. Having said that, I would also like to point out that overall I hold most staff in the organisation in the highest regard. Overall they do an excellent job, sometimes in extremely complex and dangerous situations. When it comes to change that affects staff rosters, overtime or prison staff routines, in most cases there is inevitably total opposition and the threat of industrial action is conveyed to management.

A large part of the Way Forward is to allow the managers to manage, however the main aim is to reduce waste and increase efficiency wherever possible without compromising security and the safety of the community, staff and the inmates. The budget committee of Cabinet has approved the full package of reforms. The reforms, which have been approved by the budget committee are: establish a centralised rostering unit; market test the outsourcing management of operation of two existing correctional centres; market test the outsourcing of certain functions of the department's non-core operations, for example, boom gates, perimeter security and escorts; finalise and implement new correctional centre operational statements; close certain correctional centres and reopen with the new Way Forward staffing levels and operational strategies; implement an absenteeism policy linked to overtime; management and operational statements; and, finally, introduce casual employment.

The Cabinet minute was approved by the budget committee of Cabinet on 8 July 2008. Subsequently Cabinet approved proceeding to invite tenders for Parklea and Cessnock and court escort and security on 22 October 2008. The decision was to implement the strategies by consultation. On the point of privatisation, I wish to say that Victoria has 36 per cent of its inmates under private contract; South Australia 7 per cent; Western Australia 21 per cent; Queensland 23 per cent and New South Wales 8 per cent. By contracting out Parklea and Cessnock correctional centres New South Wales will have three out of 33 centres and 21 per cent of our prisoner population under contract.

When the Junee contract was reviewed in 2000 the Prison Officers Vocational Branch [POVB] was approached by management to see if they were interested in submitting an in-house bid. The POVB declined to be involved. The POVB argued that if they were successful in the tender we, the management, would say, "If you can run that prison at a certain rate per day per inmate, now you can do it in the other prisons." So that proposal went no further.

The contracting out of Parklea, Cessnock and sections of the court and escort security forms part of an overall reform package to which I have previously referred. At Parklea it was decided to retain the compulsory drug treatment centre under our control. Additionally, the department will operate a sex offender and violent offender program within Parklea. At Cessnock the department will operate a sex offender program in the new 250-cell complex, which is about to be constructed.

In relation to contracting out of certain functions of the court and escort division, the following operations will not—and I stress "not"—be contracted out: the Broken Hill escort and court security, a statewide escort coordination section, high risk and extreme high risk escorts and the department will employ a senior officer at every 24-hour cell complex, with the exception of Albury. This senior officer will direct and monitor operations at Wagga Wagga, Moree, Lismore, Dubbo, Port Macquarie, Newcastle, Wollongong, Campbelltown, Surry Hills, Parramatta, Penrith, Batemans Bay and Queanbeyan.

Additionally, independent of the Way Forward workplace reforms, separate approval was given by the budget committee of Cabinet to contract out the wards of Long Bay Hospital to Justice Health. The department will retain control over the following areas of the Long Bay Hospital: the entrance gate, the perimeter guard towers, the visits area and visitor processing, all patient escorts out of the hospital and respond to any critical incident.

In the case of a high-risk prisoner being a patient in the Long Bay Hospital, one of our officers will be on duty in the area. Cabinet approved the contracting out of boom gates and outer perimeter patrols following protracted industrial action over staffing for the Long Bay boom gate. The following operations have been contracted out: the Long Bay and Silverwater boom gates, the Silverwater perimeter patrol, the Windsor boom gate, the Windsor, Parklea and Lithgow perimeter patrols.

There has been pressure to offer the new South Coast correctional centre at Nowra as an additional correctional centre to be contracted out. This pressure has been driven both politically and from the local business community, but an undertaking had been given to the unions that this facility will remain in the public sector under the Way Forward model. Cabinet has endorsed a feasibility study and a business case is currently being prepared with a view to replacing the existing Grafton correctional centre with a 600-bed privately financed, constructed and operated centre within the Grafton shire.

Additionally, monitoring the alarms of offenders in the community wearing electronic and satellite monitoring equipment have been contracted out. However, the department has a shift manager on duty 24/7. Finally, I have stated on many occasions publicly and in correspondence to my staff that no single staff member will need to lose their job as a result of these reforms. The department is working tirelessly to establish preferences for relocating staff. Staff will also be given an opportunity to be employed by the incoming private provider or be given an opportunity to be considered for voluntary redundancy.

The Hon. JOHN AJAKA: Mr Woodham, thank you for your opening statement. Basically what you are saying is that the whole problem with the public prison system is the unions. Is that it in a nutshell?

Mr WOODHAM: I am sorry?

The Hon. JOHN AJAKA: If I take your opening statement to mean what I thought it meant, the problem with operating a public prison system is the unions, is that what you are saying?

Mr WOODHAM: Yes, that is part of it, not particularly the unions but their members.

The Hon. JOHN AJAKA: The unions are comprised of their members.

Mr WOODHAM: I am not particularly targeting the unions; it is their members.

The Hon. JOHN AJAKA: And the members of the unions are the prison officers?

Mr WOODHAM: Yes, but as I said, some of them do not even elect to work overtime; some have got no interest in overtime, but a number of them are in the reverse and they will do anything to keep every dollar in overtime and threaten management with industrial action if we try and change anything in the prisons.

The Hon. JOHN AJAKA: You would agree with me that the aim, the priority, of a private business enterprise is to make a profit?

Mr WOODHAM: From their point of view, that would be why they are in business.

The Hon. JOHN AJAKA: None of them would go and operate a private business simply to help the community?

Mr WOODHAM: No, that is correct.

The Hon. JOHN AJAKA: They are there to make a profit and the bigger the profit, the better?

Mr WOODHAM: That is correct.

The Hon. JOHN AJAKA: Your stance is that, notwithstanding that the private enterprise wants to make a profit—that is its priority aim—and of course, the public system makes no profit at all, there is no way you, your department, can run a public correctional facility in the same manner that a private enterprise can, even though they are making a profit; they are just far superior to you?

Mr WOODHAM: It is proven with our experience with Junee that they can run a very efficient prison much cheaper than we can in the public system.

The Hon. JOHN AJAKA: I find that extraordinary. I find it extraordinary that your entire department is unable to run a prison system as effectively as a private enterprise when you do not have to worry about making a profit; you do not even have that hurdle?

Mr WOODHAM: This is one of the reasons why we are trying to implement these reforms and of course privatising prisons is only part of the reform package; it is not to waste public money and to make the system more effective and run it more efficiently, so privatisation is only part of the reform package of what we are putting forward and what we are implementing.

The Hon. JOHN AJAKA: But if I accept your line as being completely correct, why have a single public correctional facility? Why not privatise each and every one in the entire State?

Mr WOODHAM: That has been mentioned on several occasions.

The Hon. JOHN AJAKA: What is your view?

Mr WOODHAM: My view is that we do not need to do it; that by having a number of prisons run by the private sector, it really lifts the game of the public sector and that most people in the public sector realise now that they have to be able to compete with the private sector.

The Hon. JOHN AJAKA: Correct me if I am wrong, but Junee was purpose built from scratch to be a private correctional facility, is that correct?

Mr WOODHAM: That is correct.

The Hon. JOHN AJAKA: But the two that you are currently looking at are existing facilities that have been existing facilities for some time that you now wish to, in a sense, privatise and hand over, sell to the private sector?

Mr WOODHAM: Yes, well, can I tell you why we picked Parklea?

The Hon. JOHN AJAKA: Is that statement correct?

The Hon. GREG DONNELLY: Point of order: I think we need to clarify the issue of "sell" to the private sector.

The Hon. JOHN AJAKA: If I am incorrect I am more than happy for him to tell me.

CHAIR: Let the commissioner answer.

Mr WOODHAM: We are not selling out. We are not selling out our responsibility for anything to private sector. What we are doing is contracting-in certain operations. We are not selling out. We still have the responsibility. I still have as much responsibility for Junee as I have for any other prison.

The Hon. JOHN AJAKA: But the two correctional centres you selected will be run by private operators as opposed to currently being run by the department?

Mr WOODHAM: That is correct.

The Hon. JOHN AJAKA: You do not consider that it would have been more feasible to have left these correctional centres as they are—in the hands of your department—and to have looked at, as you did in Junee, building purpose built correctional centres that were going to be purpose built by the private sector?

Mr WOODHAM: No because we normally introduce a whole package of reforms through the public system. As I said, we have been talking about it since 2003. It got to the stage where a whole package had to be put forward, which was approved by the budget committee of Cabinet, to introduce into the New South Wales prison system. We have been criticised by many external bodies about the cost of operations in New South Wales. A decision was made to introduce this reform package, which included privatising two prisons.

The Hon. JOHN AJAKA: You indicated earlier that one of the problems with running the public prison system was the union, its members and the continual threat of industrial action. If you were to continue to proceed with your privatisation of these two prisons, how are you going to deal with the unions or their members if they start to strike over this? Where will this put all the other prisons?

Mr WOODHAM: If you are talking about a strike action, ever since we started to talk about the Way Forward we have had a plan, which includes, at the height of it, if there was a total walkout. We do not believe there will be as most of the prisons are starting to talk to us now about these reforms. Obviously Parklea and Cessnock officers are not, but in most of the other jails we are making progress. Some of them are agreeing to implement what we are putting forward. We are not really worried about a total walkout, but if there were a total walkout, we have contingency plans to cater for that.

The Hon. JOHN AJAKA: Have you assured the other officers in relation to the other prisons that Parklea and Cessnock are the only two prisons that you are looking at in relation to privatisation, or are there other prisons that you are looking at?

Mr WOODHAM: As I said, Grafton could be, in the future. We are working up a business case now, after a feasibility study, to replace Grafton. That could become total PFP. But as far as any other prisons are concerned, as I also said there was pressure put on us to privatise Nowra when it is constructed. It is under construction now. However we have already agreed with the union that Nowra would stay in the public sector, but under the Way Forward model.

The Hon. TREVOR KHAN: Commissioner, it is a matter for you whether you answer the questions I will put, or whether others will at the table. Over the past 12 years, there has been a significant increase in the prison population, has there not?

Mr WOODHAM: Yes.

The Hon. TREVOR KHAN: What sort of percentage increase over the past 12 years in the prison population has there been?

Mr WOODHAM: In the last 10 years, I can tell you without looking at my notes that there has been a 41 per cent increase—not 60 per cent increase, as stated publicly in the last week—in prisoners in that period, and a 40 per cent increase in staff.

The Hon. TREVOR KHAN: Has your budget increased by that amount over that same period?

Mr WOODHAM: Yes, it has. When you are opening new jails like Wellington, Kempsey and Dillwynia, you have to be budgeted for it.

The Hon. TREVOR KHAN: You have spoken of the process where you got to the point of the Way Forward model and the decision to privatise. You have spoken about what you described as market testing undertaken by Treasury.

Mr WOODHAM: Yes.

The Hon. TREVOR KHAN: Was an earlier stage of the process described as moving forward the development of the activity-based costing system?

Mr WOODHAM: I might ask Mr Schipp to respond.

Mr SCHIPP: We have always had an activity-based costing in order to allow costing for each of the correctional centres and for benchmarking and comparing our costs. We have to do that in order to provide information to the Productivity Commission for its annual report on government services. Over the past couple of years we have refined that process. Within a correctional centre, there are many different costs and there are different ways of attributing costs, as there are many different way of attributing overheads against the core cost drivers. That activity-costing process has evolved over the past couple of years, yes.

The Hon. TREVOR KHAN: Is that activity-based costing system also applied to Junee?

Mr WOODHAM: It is, in that obviously starting from the point of the costs that we pay to GEO as the manager of that centre, any costs inside of the correctional centre do not have any of our activity-based costing methods applied to them. But for the allocation of corporate overheads, regional overheads and operational overheads, we apply the same methodology against Junee as we do for all the other correctional centres to arrive at what is ultimately the fully absorbed cost per inmate per day for each correctional centre.

The Hon. TREVOR KHAN: I suppose that is where we are getting to. Are you able to tell us a comparison between the costs of keeping a prisoner at Junee as opposed to the cost of keeping a prisoner at Grafton, say?

Mr WOODHAM: Yes.

The Hon. TREVOR KHAN: That is the nub of the issue, is it not?

Mr SCHIPP: Yes. Not only that, but also looking at the costs of Junee against the benchmark and also splitting it down, what we can do with our refined activity-based costing model is look at the different security classification costs. Most jails these days are multiple classifications rather than just a single classification were all—that is, a security classification. One of the problems we had with our costing models was that we were deriving a single cost for inmate per day for a correctional centre whereas some correctional centres have medium, minimum and maximum inmates. With the refined methodology, we are able to look at the medium security classification cost at Junee and compare it to other medium security facilities across the state: similarly for minimum security facilities. Do you actually want the figures?

The Hon. TREVOR KHAN: I do.

Mr SCHIPP: As I said, we start at the direct costs per inmate per day. We allocate overheads to come up with a fully absorbed cost per inmate per day. The other issue that we have to take into account in comparing Junee with DCS or public correctional centres is that the figure that we pay GEO for Junee includes all the health services that are provided by GEO within Junee whereas in the public prisons the health services are provided by Justice Health. Justice Health is funded through an appropriation through the Department of Health. It is not until we get annual figures from Justice Health and apply those costs that we get a true fully absorbed cost.

For example, the direct costs for Junee, which is the direct costs at the jail level without any overheads applied, approximately \$100 per inmate per day compared to Parklea at \$137 per inmate per day, and Cessnock is at \$121 per inmate per day. The average is around about \$157 per inmate per day across the state. That is all classifications—maximum, medium and minimum. If we look at the fully absorbed cost, on this basis generally it costs approximately \$126 per medium security and \$112 for minimum security.

The Hon. TREVOR KHAN: Could you say that again?

Mr SCHIPP: It is \$126.79 for medium security and \$112.78 for minimum security, whereas Parklea as a maximum security facility is around about \$195 per inmate per day in maximum security and \$169 per inmate per day in minimum security. Cessnock maximum security for the same period was about \$202 per inmate per day, and minimum security was \$170 per inmate per day. They are the fully absorbed costs, which is with all of the overheads applied. In the case of Junee, that is the cost of monitoring not only the costs that we pay directly to GEO but also the internal costs that are incurred in monitoring the contract. A percentage of the corporate overheads, not just obviously the corporate overheads of GEO themselves, are incorporated into the fee that we pay them. That is the fully absorbed comparison.

Ms SYLVIA HALE: May I just clarify one of those figures?

The Hon. TREVOR KHAN: No. In terms of the services that are available at Junee compared to a comparable prison—and I am talking in terms of educational facilities and the like—what do you say is the comparison in regard to those services?

Mr SCHIPP: I do not have the specific figures with me.

The Hon. TREVOR KHAN: I am not necessarily talking about costs. I am talking about whether the prisoners at Junee have access, for instance, to educational and training facilities at a similar standard?

Mr WOODHAM: I will ask Mr Grant to respond to that.

Mr GRANT: Yes, they do. In Junee the contract imposes specific requirements on the provider to provide programs to a certain standard. The new contract, which differs from the previous ones, will include very specific reference to a requirement to provide exactly the same programs as those we were running in correctional centres. Previously they provided some of those programs and some equivalent programs. They have very high levels of participation, for instance, in education programs that are provided by a registered training organisation in Junee. They provide a number of the same programs that we provide. They have reasonably good outcomes from those programs.

The Hon. TREVOR KHAN: Are there any other facilities that are provided at other prisons that are not available at Junee?

Mr GRANT: We have some specialised programs in our suite of programs that are run only in a couple of locations. Our intensive programs dealing with sex and violence are currently run out of Long Bay only, so all the centres throughout the state send people to that facility. We do not provide every service identically in every correctional centre. What we tend to do is provide the services that meet the needs of the inmates at that centre at that time.

The Hon. TREVOR KHAN: Are there any specialised services that are provided at Grafton and Parklea that are not provided at Junee?

Mr SCHIPP: Grafton or Cessnock?

The Hon. TREVOR KHAN: Sorry, Cessnock.

Mr SCHIPP: Cessnock and Parklea that are not provided at Junee.

The Hon. TREVOR KHAN: At Junee.

Mr GRANT: Parklea probably has some slight differences. It is a larger reception centre at the moment. It has larger numbers of receptions. It focuses on new receptions, such as people who are detoxing. It has a detoxification unit that is appropriate to its size, but the same process is applied at Junee. I do not think there is anything very specifically different about the main centre in Parklea and Junee, and/or Cessnock for that matter.

The Hon. TREVOR KHAN: We have identified there is a different cost base, if that is the right term—different costs of maintaining a prisoner at Junee. Are you able to explain to us how it is possible to keep a prisoner at what I would say is a substantially lesser amount at Junee compared to a comparable facility?

Mr SCHIPP: Essentially in the industry—that is, the corrections industry—70 per cent of our costs are salaries and related expenses. In the case of the private provider, it is probably a little bit closer to 60 per cent. When you look at the staff to inmate ratios, such as the public correctional centres compared to the staff to inmate ratio at Junee, the public provider's is significantly higher. Given the percentage that salaries contributes towards the total cost, it would have to be in that area. That is not just the rate of salary but all the associated on-costs—overtime, penalty rates as well as the number of staff that make up that total salary base.

Mr WOODHAM: Plus they have not got the overtime budget. They use casuals. They have always used casuals to call on as a first port of call, which we are about now. We are doing that now. That will expand with us. Our public sector costs should come down as a result of that, but that is another contributor. I might say that all the casual staff have the same training as do the full-time staff.

Mr GRANT: Could I just add another point about costs? I think you miss an important point if you concentrate only on the cost differential between the private jails and the public jails that we run.

The Hon. TREVOR KHAN: I only have this particular period of time. I do not pick a topic.

Mr GRANT: Another very important point that is very well established in the literature is a collateral benefit from privatising a proportion of jails in a correctional system. Last year there was a paper published by Blumstein Cohen and Seth that looked at the role of privatisation on the cost of a government provided service. Concepts like innovation and competition have an impact in bringing down the cost of the public sector prisons. They conducted their study over a six-year period looking at all American States that did or did not have prisons. They concluded that there was a significantly reduced rate of growth in the cost of running the public prisons that coincided with the increase in the cost otherwise. In those prison systems of equivalent size to us it was found that they saved about 15 million additional dollars on the economies that they were able to introduce in the public sector prisons by being exposed to that particular type of arrangement by having private sector competitors.

So the other benefit you get is beyond just that saving in that it encourages the public sector to innovate, to adopt new work practises and to be competitive because you have got a benchmark you can use. The other thing they found which is relevant to our situation here is that the benefit increased as you increase the proportion. So if you looked at a small percentage of privately run jails, like we have had eight per cent, and increased it to 20 per cent as we are doing, you see an increase in the benefit to the other jails in the State, not just the increase from that scale of the operation.

Ms SYLVIA HALE: You quoted figures for Parklea and Cessnock. Was it \$195 for maximum security inmates at Parklea and \$202 for the cost of maximum security inmates at Cessnock?

Mr SCHIPP: That is correct.

Ms SYLVIA HALE: Are there maximum security prisoners in Junee?

Mr SCHIPP: There are about 90 remandees at Junee and they would be considered as maximum security but the predominant classification at Junee is medium security.

Ms SYLVIA HALE: So it is not really a case of comparing apples with apples when you are talking about maximum cost per day as opposed to medium cost?

Mr SCHIPP: No, that is right.

Ms SYLVIA HALE: Does Junee have welfare officers?

Mr GRANT: Junee has a different classification structure for its workers so that we have our own awards and Junee has its. Junee has positions that are counsellor positions and also use their Correctional officers to perform a broader function. So in that centre the welfare needs are met through a different set of processes.

Ms SYLVIA HALE: So it is not really possible to do a direct comparison between the institutions if they have different salary structures or—

Mr WOODHAM: We are moving that way as well having general counsellors.

Ms SYLVIA HALE: No. I am interested in comparisons. We have been given figures—

Mr SCHIPP: That is right. The services and the standards are notionally the same but the way they achieve that can be different because, for instance, we have our own teachers. They currently have been using TAFE to provide their education programs. We do have some generalist counsellors in some of our Correctional Centres program, like the new island agreement centres. But we are trying to move away, as the commissioner said, from that very narrow role of welfare officer, drug and alcohol worker and so on.

Ms SYLVIA HALE: Would you agree that staff-to-inmate ratio in public prisons is higher? Is that due in any way because public prisons have a greater percentage of maximum security inmates and, therefore, they need that greater ratio?

Mr SCHIPP: No. We can actually break down the figures by security classification if you like but I would pick Parklea and Cessnock in the figures because they were the two facilities that are in question here. If you give me a minute I can have a look at that.

Ms SYLVIA HALE: If you will provide them to the Committee on notice that will be fine. Would you provide a detailed analysis, and also a comparison between what constitutes welfare officers at Junee and with what constitutes welfare officers in, say, Cessnock or Parklea?

Mr SCHIPP: Yes.

Ms SYLVIA HALE: Commissioner, would you provide the Committee with the document that sets out the specifics of the way forward?

Mr WOODHAM: Yes.

Ms SYLVIA HALE: You said that "privatising prisons is only part of the reform package" but privatisation is part of that reform package?

Mr WOODHAM: That is true.

Ms SYLVIA HALE: In your 2007-08 annual report under the targets for 2008-09, offender management, operations, in the 10 or so targets why is there no mention of privatisation if that is such a key part of the way forward?

Mr WOODHAM: As I have said, we have been talking about the way forward since 2003 and that document has changed over the period of time until we got to the final version in late 2008 which is the one that is being implemented now and has been approved by the budget committee of Cabinet.

Ms SYLVIA HALE: Prior to that privatisation was not a significant aspect of the way forward? It was not so significant in 2007 that it needed to be mentioned in the annual report at all?

Mr WOODHAM: Yes, and, as I said, circumstances changed and that document has been a working document and we have revamped it over that period of time. We are also in a position now where we have to abide by a savings strategy.

Ms SYLVIA HALE: You say the document has changed but in your negotiations with the union you have consistently provided them with current versions of the way forward?

Mr WOODHAM: Yes, over the years they have—

Ms SYLVIA HALE: They have had copies of the way forward over the years?

Mr WOODHAM: Yes.

Ms SYLVIA HALE: Did you or your department recommend to the department that Parklea and Cessnock be privatised or did the directive come from the Government?

Mr WOODHAM: Of course, we cannot make the decision. It was all done in consultation with our Minister.

Ms SYLVIA HALE: Where did the recommendation come? Where was the drive to privatise?

Mr WOODHAM: I am trying to answer. You are talking over the top of me, if you do not mind. I was trying to explain that it evolved from consultation and talks with our Minister. The Minister agreed—and the Minister is the only one that can sign a Cabinet Minute.

Ms SYLVIA HALE: When you say the Minister agreed, that suggests that you were putting a proposal to him to which he agreed. Is that correct?

Mr WOODHAM: No, we were considering a savings strategy which would come about and put a proposal forward to privatise two prisons. Now we went through—and I can show to you how we came to Parklea and Cessnock if you want me to?

Ms SYLVIA HALE: No. I am interested to know where the impetus for privatisation came? Did it initially come from yourselves or the Minister?

Mr WOODHAM: Through negotiated talks with the Minister.

Ms SYLVIA HALE: So you both spontaneously had this bright idea at the same time?

Mr WOODHAM: There was a range of strategies that were discussed with the Minister?

Ms SYLVIA HALE: So you discussed them with the Minister, and the Minister agreed. You talked about island agreements. I assume they are the consent awards that the department entered into with the union? Was the possibility of the so-called consent award prisons being run by private operators discussed during negotiations of the consent award with the union? Was privatisation discussed?

Mr WOODHAM: Yes, privatisation, I can tell us now, 12 hours before an agreement was reached to keep Kempsey and Dillwynia in the public sector, they would have been privatised. The Government would have privatised both those Correctional Centres if an agreement had not been reached on the last night.

Ms SYLVIA HALE: Did your department, yourself or the Minister either tell, imply or suggest to the unions that the —

The Hon. TREVOR KHAN: Point of order: I wonder if this line of questioning is really in accordance with the terms of reference? We seem to be engaged in an analysis of the negotiated style of the Department of Corrective Services as opposed the issue of whether, in essence, it should be privatising jails.

Ms SYLVIA HALE: This is my final question on this issue.

CHAIR: I rule on the point of order that the terms of reference do say "and other related issues" as we always have in our terms of reference to allow a broad-ranging discussion. The question is within the terms of reference.

Ms SYLVIA HALE: Did you, the Minister or anyone from your department suggest that if the consent award was agreed to there would be no further moves to privatise prisons?

Mr WOODHAM: Privatisation has always been talked about, no matter what. At the time Kempsey and Dillwynia were talked about, we were also talking about Wellington. The main topic that I can recall is that anything we built in the future would not be privatised.

Ms SYLVIA HALE: So there was this understanding there would be no further privatisation?

Mr WOODHAM: Of any new facility.

Ms SYLVIA HALE: Are you saying it was implicit that in fact there was always a possibility for privatisation of existing facilities?

Mr WOODHAM: Any new facility: that is my recollection.

Ms SYLVIA HALE: I presume the main objective of privatising Parklea and Cessnock is to make budgetary savings. What savings are you anticipating making?

Mr WOODHAM: ... [evidence suppressed by resolution of the Committee]

Ms SYLVIA HALE: Will you take on notice and provide the Committee with a breakdown of how you arrive at those figures?

Mr WOODHAM: Yes. I will just have to get advice on that because it is included in the Cabinet minute.

Ms SYLVIA HALE: How do you anticipate privatisation will deliver those savings? Is it primarily through savings with personnel expenses?

Mr WOODHAM: That is part of it. As I said they use casuals. They use technology. They can do things that the public sector cannot do, like most private operators operate under the way of purchasing things locally where the public sector cannot. As an example, four out of the five people that are interested in tendering for these two jails now and have been selected to prepare a tender said they would even do things like buying motor vehicles at the local town. So it is can be a very beneficial proposition. When you go to Junee you should talk to the mayor and see what he says about what business a privateer will bring into the local area, plus they will do their recruiting in the local area.

The Hon. ROY SMITH: When you talk about privatisation of Parklea and Cessnock are you talking about the operational matters and not the transfer of any assets?

Mr WOODHAM: No.

The Hon. ROY SMITH: How would it operate in relation to ongoing maintenance? Is that part of the contract with the facility?

Mr SCHIPP: Maintenance certainly is part of both the specifications and obviously the management fee that flows from that. There are two aspects to that. One is the yearly maintenance, the painting the recarpeting, the repairing, plumbing and things like that. There is then also the longer term periodic maintenance where every three, four or five years major pieces of equipment, PABXs, security equipment, the cell-call systems, some of the electronic security need to be replaced on a five, six or seven-year basis. So we allow both for the annual maintenance as well as the periodic maintenance.

The Hon. ROY SMITH: So the administration and management of maintenance would be part of the contract arrangement, but the cost of the actual maintenance would be charged to be department directly?

Mr SCHIPP: Not directly to the department. We specify what level of maintenance or service we need the facility to be maintained to. The bidder has to assess about in and take the risk that it is going to cost a certain amount of money a year. They have a full inventory of what assets are included in the facility. They have to return the assets to us at the end of the contract period in the same condition. Or, if they are replacing assets such as motor vehicles or PCs, things that are replaced on a periodic basis, they have to replace them at their own cost. They have to assess the risk and that the cost of replacing those and inflict those into the fees. We pay a fixed fee and they have to manage the maintenance to a predetermined standard. We do annual maintenance audits and condition surveys of the facility, as well as monthly checks to make sure all the maintenance has been done.

The Hon. ROY SMITH: In your opening statement you mentioned that the Cabinet budget committee had approved various aspects of the way forward including central rostering. Can you explain how that works, or will work?

Mr WOODHAM: Mr McLean will answer that.

Mr McLEAN: I will give a bit of background to traditional rostering. The custodial roster clerk does traditional rostering at each correctional centre. That within itself is fraught with problems over the years of manipulation of rosters, favouritism of rosters, and, at the end of the day, the overtime is calculated or worked basically by the staff in those centres. Centralising of rosters puts it to one unit based at Silverwater. In that unit the budgets are allocated on a daily basis across every correctional centre to let the general manager of that centre know exactly what they have for the day of expenditure. In the centres we have started to leave a roster support clerk. That person will do the administrative functions at the centre and record directly back to the central roster procedure. So the actual rostering will not be done in any way at the centre.

Advice will be provided to the centre, and then back from the centre the general manager will give what he believes is required for the day in line with the budgets of the day. We also get the benefit from that, that the highly experienced custodial officers will go back into the correctional centres, which, again, gives us the benefit of those officers. The figure we are looking at is 26, operating within the centres. At the end of the day it takes away the onus of the rosters being done by the staff at the centre and puts it back to the unit in the central position, and also gives the general managers the opportunity to manage the centre themselves.

The Hon. ROY SMITH: Okay. Really it is a mechanism designed to remedy the problems with overtime blowouts and things like that?

Mr McLEAN: That is correct.

The Hon. ROY SMITH: Thank you, that is all I have.

Ms SYLVIA HALE: Mr Woodham, can you explain why you have chosen Parklea and Cessnock but not Long Bay or Surry Hills for a remand centre?

Mr WOODHAM: Yes, I can. The decision to contract out services in two correctional centres, I reiterate, was made by the Government. The decision was made to achieve savings, establish benchmarks for ensuring that publicly operated centres perform to the optimum standard and to encourage innovation. There is good evidence from the study published in 2008 that shows that States with some of their prisoners in privately owned or operated facilities experience lower rates of growth in the cost of housing their public prisoners in addition to direct savings from using the private providers. The study suggested also that the greater the percentage of inmates in private prisons the greater the cost savings for the publicly managed prisons. In New South Wales we have had a privately operated prison for the past 15 years. It houses 18 per cent of our prison population.

Ms SYLVIA HALE: Mr Woodham, I do not mean to be rude, but my question was why you had selected Cessnock and Parklea.

Mr WOODHAM: Okay. Having decided to tender out two centres, there were a number of considerations in forming the selection process. Firstly, the size of the selected centres had to be large enough to make the venture commercially worthwhile for a private tenderer. Secondly, the location. The centres had to be located in either the metropolitan area or in an area close to a regional city where staff would have a better chance of alternative employment. Regarding function, the centres should not perform highly specialised or strategic functions as the expertise may be difficult to find in the private sector—for example, the SuperMax jail and the special purpose prison.

Regarding performance, the selected centres should not be among the better performing publicly operated facilities. Parklea and Cessnock correctional centres were specifically identified for market testing as they came closer to the matching criteria. In relation to Parklea, that is a large correctional centre with 880 inmates. It is located in the greater metropolitan area. Within the metropolitan area the workforce is more mobile for redeployment. Parklea is currently a remand and reception centre with very limited programs. Parklea has a number of performance issues. The centre has significant levels of sick leave and has a high use of overtime.

The militant and inflexible local POVB insists on every position being filled regardless of need and sometimes keeps inmates locked in cells until all positions are filled. The cost per inmate per day is high. The centre has had a high level of industrial disputation. Industrial action at the centre has resulted in the creation of additional posts that are maintained purely on overtime. At the same time, management believes that a restructure of existing posts could have achieved the same results without the use of overtime. For example, there are accommodation units that maintain custodial staff during the day, even though most prisoners are not there.

In relation to Cessnock, it is a large correctional centre with 480 beds. As I said earlier, it is about to be expanded by another 250 beds. Cessnock is located close to Newcastle with some staff residing in the Central Coast and other areas accessible to Sydney. Cessnock is a multipurpose centre. It has a number of performance issues. It has high levels of overtime, sick leave and a high cost per inmate per day. Cessnock also has a history of industrial disputation and a greater resistance to change. To take that a bit further, when looking at the history of Parklea and Cessnock jails, they are of great concern for management. A couple of escapes occurred at Parklea. In one instance, officers deactivated the alarms of the security fence to mow the lawns. While their backs were turned a number of inmates escaped from the centre over the perimeter wall and they were there for quite some minutes trying to hook onto the wall. It was under camera surveillance, but no-one saw anything. It is believed that the prison officers in the control room at that time had been watching cricket on television. Those escapees assaulted a woman, threw her out of her car and injured her. They escaped.

More recently, in the last month or so, information technology [IT] workers had to be especially brought in to repair the computer network after it became clogged with unauthorised files, including interactive video games brought in by staff. The officers were playing video games during their watch instead of guarding inmates. Again, that is in the same maximum-security jail that the escape occurred that I mentioned earlier. Information technology workers who went out to fix up the computers found that 49 prison officers had been downloading material onto the system, taking up more than 20 gigabytes of hard disk space. When the IT workers attempted to delete the files they found that some of the staff were actually playing them at the time and a message had to be sent out for staff to close the files so that they could be removed from the system. That matter is still under current investigation with those 49 offices. So, what has changed?

In another case a Spaniard and a Mexican—principals in a United States and Mexican and drug cartel, who were held at Parklea for deportation for offences including murder of a sheriff in Texas—smashed through the Parklea jail steel gates in a truck on 11 September 2001. They were Rios El Gordo Balderrama and Armando Quiroz. They had been standing near a truck that was delivering a load of steel to Parklea. The prison officer supervising the truck and the driver walked away to sign paperwork and each year jumped in the truck and drove 80 metres through an internal gate, eventually barrelling through the eight square metre reinforced steel main gate and took it straight off its hinges—and escaped to freedom. This was after a direction had been issued that no vehicle was allowed in the industry section while the prisoners were out.

I turn now to Cessnock—

Ms SYLVIA HALE: You said that occurred in 2001?

Mr WOODHAM: Yes, but I am also talking about the history of the place and the alleged watching of sport while prisoners are escaping, instead of watching the monitors, and then—

Ms SYLVIA HALE: But that happens in private enterprise all the time.

Mr WOODHAM: —but two months ago there was the IT incident—

Ms SYLVIA HALE: It is not just a characteristic of public service.

CHAIR: Order!

Mr WOODHAM: I turn back to Cessnock. Attempts by the department to change existing work practices aimed at reducing overtime have been met with a campaign of resistance, which has included the intimidation of individual prison officers. The Cessnock Correctional Centre has a history of intimidation and harassment of staff who are willing to embrace workplace reform. For example, at a meeting trying to introduce case management, a senior officer was trying to explain the work practice but was interrupted by a staff member

who warned that, "if you go ahead with what you say you will get your legs broken". Another officer appointed as a new roster clerk at Cessnock to help curtail overtime was traumatised after wads of burning newspaper were stuffed into the vents of his office and the room filled with smoke. Although he could never say which staff member was responsible for the attack, the officer felt compelled to leave Cessnock after he received anonymous hate mail. His wife was also threatened with abusive phone calls. To this day he is traumatised.

Recently we interviewed him because we thought he might be able to talk to you. But he is not prepared to, as he is still visibly traumatised and shakes when this incident is mentioned to him. That officer was replaced by another roster clerk who was trying to do the same thing by pulling back overtime and he was continually harassed and had to leave after three months. They were not the main reasons for why we looked at those two prisons, but looking at the history of those places I cannot but help think about it. If I could go through the other jails as to why we did not privatise them.

If you look at Goulburn, which has the Supermax and the MPU, it is probably the most maximum-security centre in Australia and you would not privatise it. The Metropolitan Remand and Reception Centre is the largest remand and reception centre at the front end and it should be kept in the public system. When we privatise Parklea all-new receptions will be going through that facility before they move on to Parklea. We have just talked about Cessnock. Bathurst has already adopted the Way Forward following Lithgow and lock-in procedures and has shown a preparedness to adapt to change.

The Metropolitan Special Programs Centre has all our therapeutic programs and you would not privatise it. Kempsey is already operating under an island agreement. I have just mentioned Parklea. We have taken over 150 prisoners out of Silverwater Men's and we are changing the work release program over to be managed by Probation and Parole, as it is a real community program. Parramatta Correctional Centre is planned to be closed for the third time after the Nowra prison is constructed. Junee is already under private contract. The John Morony Correctional Centre, which is the core young adult offender program, is linked to Oberon and the intensive learning centre. We have an intensive learning centre there where prisoners for the first time in New South Wales are paid for full-time education, and we do not want to privatise that

At Lithgow there is a security threat group program, which is a step down unit from the Supermax and we can also hold double-A inmates who are charged with terrorist offences—we do not want to privatise that. There is a feasibility study underway at Grafton to replace and extend, to build a facility for 600 inmates, so we would not be privatising that. St Heliers is not large enough—it is a minimum-security jail. As I have said aspects of the Long Bay hospital, have been contracted out to Justice Health. Silverwater Women's—we have no intention of privatising women's facilities. Dillwynia for the same reason because it is also under a nominal agreement. Broken Hill and Tamworth are not large enough. Emu Plains again falls into the category of no intention to privatise women's facilities. Cooma is not large enough. Oberon, Glen Innes, Mannus, Kirkconnell are all prison camps and not large enough. Berrima again is a women's facility and we are not interested in privatising women's facilities.

CHAIR: We will take a short break to reorganise the microphones because some of the media are having trouble picking up the sound.

(Short adjournment)

CHAIR: We will now resume with Government questions.

The Hon. HELEN WESTWOOD: You have spoken a lot about the relationship of overtime, overtime rates and sick leave when you have referred to the reasons that the Government has identified a Parklea and Cessnock for privatisation. Would you please give the Committee some more information about those overtime rates? You have spoke about the better performing publicly run prisons and you have also spoke about the private prisons. Would you please give us a comparison of the rates of the better performing Government run prisons and private prisons with the two you have identified? You also spoke about sick leave. Would you explain to the Committee the relationship between sick leave and overtime rates? From the evidence you have given to the Committee there seems to be a link. Would you also explain that please?

Mr WOODHAM: I will do my best. Firstly the department has an overtime budget of approximately \$20 million, with the current forecast expenditure of \$37 million this year—that is down from the actual expenditure of \$47 million last year. The reduction in overtime has come about through a range of reforms introduced under Way Forward already and it is my intention to bring this down even further—the contracting

out of services at Parklea and Cessnock will assist. Approximately 66 per cent of the entire department's budget is committed to labour costs, as Gerry said earlier. The POVB have suggested that the higher levels of overtime used in New South Wales prisons are due to staff shortages. It has been suggested, for instance, that over the past decade the number of prison officers has not kept pace with the growth in the number of inmates—that is not true. Over the past decade the number of prisoners has not increased by 60 per cent, as claimed. The increase between 1998-1999 and 2007-08 was in fact 41 per cent. Accordingly to the budget papers in 1998-1999 there was an average inmate population of 6,830 and by 2007-08 this had risen to 9,618— an increase of 2,788 or 41 per cent. For the same period staff involved in the containment and care of inmates increased from 3,377 to 4,742—an increase of 1,365 or 40 per cent.

Another reason I am confident the staff shortages are not the main driver of overtime is that on a number of occasions when we have put on additional staff in correctional centres, the overtime levels have not decreased. For instance, 120 correctional officers completed their training in April 2007 and were placed in correctional centres. The overtime used in these centres where those officers had been placed did not go down but the level of sick leave went up. Unscheduled absences are the main contributor to overtime. Where overtime is higher in particular centres sick leave is high; conversely, where overtime is low so is sick leave. What occurs is that officers work overtime on their days off and then go sick on their normal rostered days. There is a pattern—I can provide you with a copy—where sick leave goes up Monday to Friday and it goes down on a weekend because the officers come in for the penalty rates. I can also give you a graph that shows—and we have discussed this with the union a number of times—that sick leave and overtime goes down at Christmas when all the jails are open because they want their leave. When they come back, up it goes. What we have been saying to the union is, "Why can't we keep it at that level because it is down near what we budgeted for all the year through?" but it does not work that way.

At the top end of the scale there was an officer who earned a take-home pay of \$2,600 during a 14-day period. In those 14 days he also took six days off as carers leave on normal rostered days and then worked overtime on rostered days off, including a number of double shifts. Let me give you another example. An officer in 2007-08 worked 158 overtime shifts in addition to the 209 rostered shifts for the year and 96 of the overtime shifts were double shifts. That officer also took 13 days sick leave and 21 days recreation leave as well. Justice Marks of the Industrial Commission is on the record as stating no officer within a correctional centre should work a double shift of 16 hours. Under the present system double shifts are worked every day in large regional centres. Unions will argue that it is as a result of short staffing but it is not; it is because of leave taken at short notice and with undoubtedly sick leave being the major contributor.

In one correctional centre with more than a full complement of staff overtime is still used. Some correctional officers have factored in overtime as part of their regular income and, in some cases, have aligned mortgages and their lifestyles to this income. I have offered to arrange independent financial advice to all custodial staff on a number of occasions if they require it, as these reforms will reduce overtime. Overtime has been part of Corrections for as long as I can remember, and there will still be some overtime but not to the extent that it is now.

I have successfully introduced casuals and I intend to continue to recruit casuals who will be available at short notice to fill short-term vacancies that would otherwise be filled by overtime. These casuals will be trained to the exact level as probationary correctional officers. We have also introduced an absenteeism policy that it seems will probably be formally arbitrated in the Industrial Commission that is linked to overtime distribution and centralising rosters which will again, in my opinion, give more support to the way we structure officers who are genuinely sick and alleviate unnecessary sick leave to a degree. Even building modern correctional facilities—it can be quite a strain on staff working in a 200-year old jail compared with Dillwynia in Junee. The way we build new jails now and the work environment compared with the old jails in my opinion will also help reduce sick leave.

Corrections, at times, is a very demanding and stressful job. It is vital that officers have that very important balance between work and relaxation and time off. The very purpose of rest days is to have time away from the workplace with family and to return to work refreshed. As I mentioned earlier, there will always be overtime but not at the very high levels as in the past. As I have said in my opening statement, some officers do not work overtime and others are only there for the overtime. As an example, 3,140 officers earned \$18 million last year and on the other side—the side we are really concerned about—960 officers earned \$21 million.

The Hon. HELEN WESTWOOD: Commissioner, it seems to me you have been describing a culture within these prisons that has a detrimental impact on the budget of those facilities. It seems to me you are also

suggesting that not every officer is carrying out these work practices you have described to us at those same facilities.

Mr WOODHAM: That is correct.

The Hon. HELEN WESTWOOD: Therefore there must be a detrimental impact on the other officers. I would assume that the management of those facilities has been concerned and has tried to address that culture. Could you tell me how they have tried to address that culture? I would also assume the union has been involved in that and it must have officers there who are negatively affected and the union would be concerned about those officers as well. Surely you have involved the union in discussions about trying to address the cultural issues you have described to us at these facilities. Could you give me some more information about that?

Mr WOODHAM: I will refer that to Mr McLean, but I can also say there are a lot of positive aspects of prison officer culture as well. We are just identifying some that are applicable to the terms of reference of this inquiry. There are a number of aspects of prison officer culture that are very positive. I will get Mr McLean to answer the question.

Mr McLEAN: I will give you some background to the actual commencement of the rise of overtime and sick leave within the correctional system. In the late 1980s most of the correctional system, when the now Commissioner took over, had a degree of turmoil. There was certainly disruption, riots and small altercations within the centres in much larger numbers than we have today—extremely large numbers. It was then decided to take control of the correctional facilities away from the inmates and put them under the control of the staff. In itself that sounds fairly simple but it was a difficult task. It certainly led to a lot of angst for the Commissioner of the day and the management teams of the centres. We then started a process of implementing area management and operational agreements. That put the control of the centres back in the hands of the staff. Over the period from 1991 to the present day, with those operational agreements and control—I will go into centralised rostering in more depth shortly—there was clearly an increase in overtime and sick leave. It peaked in 2006-07, as was said earlier, at \$43million in a budget of approximately \$20 million. Sick leave peaked comparably at the same time.

It is very difficult for managers in the correctional centres to look on a daily basis at the best method of operation, to show that they could actually close down areas and move inmates away from those areas into programs and industry and take the staff in those areas and free them for other and better duties within the centres. In some centres today it is still expected that the staff will remain in empty units or wings, or with minimal numbers where there are some inmates. As such it is impossible for the managers to be able to manage those circumstances within budgets. The expectation also is that staff within those areas will be replaced on overtime if the staff for whatever reason are not available, such as being on sick leave or because of various short-term vacancies. The managers also have to cope with the fact that we have to honour contracts within the industry areas. We have an obligation to do that. Obviously we have inmates on training programs and we hope that when they finish those industry and program areas they will come out with some qualifications that they can take back into society as a better citizen.

When the managers try to continue that under the present operations those industries are shut down on many occasions. We still have the staff on duty and we still have to staff those positions. We cannot fulfil our contractual operations and quite often the relationships between the contractors and us become very strained. At the same time, there is also an expectation from the unions that every single position will be filled, as I said earlier. Again, it is very difficult for managers to look at staff individually and be able to say that they have maybe 20 or 30 per cent of staff who would love to comply—the percentage is a difficult thing to analyse—but the small percentage of staff that insist on this through union agreements and, again, I believe through manipulation, make it difficult for the whole staff and place considerable stress on that good percentage of staff operating in those surroundings.

The new management agreements certainly put the management of the centres back with the general manager. These have gone to every correctional centre at this stage. Over the last few weeks two teams have gone around the State, with State union delegates having the opportunity to attend with us, and we have given presentations about the new management plans to every centre in the State. Some of those centres have already started to reach agreement. They are going through a process called "local board of management", where unions still have input into those local boards of management, but at the end of the day the general manager is the final decision maker. Compared with the traditional method where it processed through, as I mentioned earlier, it will make it much easier for the general managers to manage their centres.

The Hon. GREG DONNELLY: In the full three remaining minutes for Government members' questions, I ask: Mr Woodham, what do you say to the proposition that we sometimes hear that the participation in the running of jails compromises the quality of service delivery, placing the community, staff and indeed inmates at risk?

Mr WOODHAM: I will get Mr Grant to answer.

Mr GRANT: Obviously it takes more than three minutes to elaborate. Hopefully we can address that in our written submission. There is absolutely no evidence to support a statement like that. There is a body of international literature. Often it lines up along ideological grounds, but there are some very reasonable and objective reviews of the relationship between the quality and cost of prison services in the private sector. I draw the Committee's attention to one paper in particular, which is a *Harvard Law Review* report in 2002, which summarises the issues and says:

Studies that do look at cost or quality alone do provide some information. The most rigorous studies find clearly positive cost savings. On the quality side comparisons are trickier as there is no single metric representing quality. But none—

"None" is the important word.

of the more rigorous studies find quality at public prisons lower on average and most find private prisons outscoring public prisons on most quality indicators. Most of these quality studies do not examine cost, but as private prisons are not expected to be more expensive this result belies statements in the prison literature that assume that cost reductions must come at the expense of quality. Indeed, the very few methodologically sound studies that evaluate both cost and quality suggest that cost is no higher in private facilities and quality is at least roughly equivalent.

There is very little Australian literature about this. However, I also draw the Committee's attention to the most recent report of the Inspector of Custodial Services in Western Australia, Richard Harding, who is also probably the pre-eminent writer on prison privatisation. Professor Harding last year did a thorough review of Acacia prison in Western Australia. There have been some issues with a previous provider when it was put out to tender. When it was re-tendered Professor Harding looked at the way the prison was being run by the private sector and found that the quality of the services was to a very high standard. He was very impressed with that and if you read the report it is very clear. He also estimated that it would cost the Government between \$12.5 million and \$20 million if they were to take that prison back. This is a very good, objective examination of a private prison in Australia.

Of course, in New South Wales we have 15 years experience with Junee. On all measures—and these are things that we will be putting into our submission in detail—if you look at escape rates, assault rates, the level of institutional disciplinary problems and so on, there are significantly positive results for Junee in relation to all those things. They are either comparable or do better, or if there are any differences they can reasonably be accounted for according to the nature of the people in those centres. There are lower assault rates, lower levels of disciplinary matters and so on. In terms of their capacity to provide programs, to give one example, someone asked about education. Junee has an extraordinarily high rate of educational completion, significantly better in some respects than a lot of other correctional centres in the State. By all accounts our experience with the private sector, on all of those objective measures and things that we report on regularly, is that Junee performs as well as any of our correctional centres, if not better in some cases.

The Hon. GREG DONNELLY: One final question directed to the Commissioner because I think it is important to clarify a matter raised by Ms Hale in her line of questioning. I thought it was implicit that in relation to reform and specifically with regard to the discussion of the privatisation matters associated with Cessnock and Parklea, she presented that as if you, Commissioner, knocked on the Minister's door and said, "I want these two jails privatised, get on with it", and the Minister said yes and that was the end of that. That clearly was not the position, was it?

Mr WOODHAM: No.

Ms SYLVIA HALE: I don't know that that was my position either!

Mr WOODHAM: No, definitely not, it was over a period of time and a number of options were discussed. Finally it was agreed with the Minister that two jails would be part of the overall reform package to be privatised and it would be put to the budget committee.

The Hon. GREG DONNELLY: Thank you, Commissioner. I will put my other questions on notice, Madam Chair.

CHAIR: We will now have Opposition questions.

The Hon. TREVOR KHAN: Mr Grant, you made a comment towards the end of a question that was asked, I think by Mr Donnelly, when you said you were intending to include something in your submission. Do I take it—I am not trying to verbal you in any way—that that means there is an intent by the Commissioner and yourselves to put a formal written submission to us?

Mr GRANT: It is our intention. We were hoping to hear today of any things we might not have addressed in our submission before we finalised it, but we will be providing a very detailed submission to the Committee.

The Hon. TREVOR KHAN: That is excellent. Has a comparison been done between the levels of overtime and sick leave in New South Wales prisons, both private and public, and those in other States?

Mr SCHIPP: No we have not, because very little is published at that level of detail within the financial statements. Indeed, even between government departments in New South Wales the level of disaggregation of costs just does not reach that level. Certainly we benchmark between our own centres and between our centres and June. If we make a comparison between the three centres operating under the island agreement and the rest of the public system, the island agreement centres have significantly lower overtime and sick leave figures.

The Hon. TREVOR KHAN: In the submission or otherwise could you provide us with the figures comparing the island agreement prisons and the other prisons so we have some idea of what we are talking about?

Ms SYLVIA HALE: And the private one.

The Hon. TREVOR KHAN: And the private one.

Mr SCHIPP: Yes. We do not get the actual figures for the private one; we get what is included as part of their estimate in the tendering. I would probably have to ask that some level of confidentiality be placed on that given the commercial nature of the information.

The Hon. TREVOR KHAN: Commissioner, I am interested—again, this might fall to Mr Schipp—that you have a budget for overtime that is set at \$20 million and yet last year it was \$47 million. It seems to me that you have set a budget that in a sense you knew at the start of the year you were not going to achieve. That seems to me, and I invite comment, to be a different concept of budgeting from that of private industry where the budgeted figure is actually set at what you anticipate it to be. Your budget seems to be a wing and a prayer figure that you know you are not going to achieve. Am I being unfair in that analysis? It is not meant as a criticism; it just seems to be a different concept.

Mr SCHIPP: With respect to the commissioner, when he said last year's figure of \$47 million I think he might have misread his notes: it was \$40 million last year and then \$43 million the year before that. So there has been a decrease.

The Hon. TREVOR KHAN: It is more than twice?

Mr SCHIPP: It is more than twice the figure of \$20 million. The figure of \$20 million is based on a calculation that stems from the staffing level. The staffing formula for positions within correctional centres starts with 365 days available in the year and then we deduct a number of days for public holidays, sick leave, et cetera, to come down to what is referred to as the 209 staffing formula, which means we get 209 shifts per person to fill a post. That allows for a certain amount of sick leave, recreation leave, and so on.

The amount of overtime we then provide is what we reasonably expect people to take above that, and the \$20 million figure across the board is that figure. We can provide information in terms of the growth in overtime, both in actual terms as well as real terms, over the last 10 years. It has more than doubled, I think. Going back to the mid-1990s it was around the \$10 million mark, and when you allow for cost escalations you get around that \$20 million mark. We do not get separately funded for overtime from Treasury; we get bottom-

line funding. Certainly the benchmarking of the costs supports our argument that the overtime should be significantly lower than what it actually is. So whether or not that figure of \$20 million is realistic, it is well within what is paid elsewhere, as I said, in terms of the private sector as well as what we calculate as being a reasonable figure given the staffing levels that we have.

The Hon. JOHN AJAKA: Are you able to provide us with the statistics of the overtime over the last 20 years, for example, based on the number of prisoners and the number of prison officers? I would like to understand if there has been a huge change one way or the other, based on the increase in the prison population, the number of officers when they came in, and on the budget for those years compared with what was spent. Is that information fairly readily available for you to be able to provide it to us?

Mr WOODHAM: We are confident that we can give you that for the last 10 years. We will look at 20 years, but we are confident that we can give it to you for the last 10 years.

The Hon. JOHN AJAKA: Commissioner, I notice you said twice that there is no intention of privatising women's facilities. I found that to be an extraordinary statement. Are you saying that the only intention at this stage is in relation to men's facilities?

Mr WOODHAM: It has never been discussed about privatising women's facilities. The women's facilities have special programs; they are different to the men. Whereas the men are higher risk and lower need, the women are most definitely higher need and less risk. We want to keep control of those programs for the women.

The Hon. JOHN AJAKA: This is not a sexist approach. Are we able to at least identify if there are efficiencies and cost savings in privatising women's facilities?

Mr WOODHAM: In the public system, the women's facility is Dillwynia. Women's facilities are generally more expensive because of the support services you have to put in for women, where over 70 per cent of the women have been abused as a child or abused as an adult, and it is more costly to put the support programs around those poor individuals who need that sort of support. We have never had any intention to privatise those facilities. As a matter of fact, we have just got plans to extend and reopen the Norma Parker Centre for high-need women, and we need to have that definite continuity of progress through the system for those high-need women.

The Hon. JOHN AJAKA: Have any comparisons been done in relation to the overtime problems in relation to women's facilities?

Mr WOODHAM: Dillwynia, for example, which is the newest women's prison, is the most economically run women's prison in New South Wales, even though you have to put those extra services in for the high-need women they have to manage there. It is one facility, I think, that this Committee should go and look at.

The Hon. JOHN AJAKA: Are there fewer problems with union membership in the women's facilities compared with the men's facilities?

Mr WOODHAM: I am not here just to bash unions. It is not just the unions; it is the members that they have to manage, as well as us. They have difficulty managing some of them as well as we do, and it is the staff members in some of these facilities that make the difference. As an example, we have had to close a couple of facilities because, to be quite honest with you, the union or management could not talk any sense with them.

The Hon. ROY SMITH: Commissioner, the incidence of overtime and the use of sick leave have been highlighted at Cessnock and Parklea. How do they compare with other prisons around the State? Are they the only two that have a relatively high incidence of overtime coupled with the use of sick leave or other leave?

Mr McLEAN: No, they are not, there are other centres also. That is why we are looking at the plans. But those centres, in comparison, have very detailed programs within them, which the commissioner read through earlier. We certainly intend to address those as well. I can tell you that this year to date, in relation to Parklea for example, and Cessnock, it is very high. Parklea had 3,340 incidences of sick leave in the last financial year and 8,153 shifts of overtime. In comparison, Cessnock had 2,232 incidences of sick leave and 2,803 incidences of overtime.

At Parklea the budget is approximately \$800,000 for overtime. Last financial year \$3.36 million was expended. Cessnock, similarly in relation to overtime, spent \$1.18 million. They have one section of their centre closed down, where they have 120 hours of overtime allocated to that particular area. But, being closed, those overtime hours are absorbed within the correctional centre itself, where management really does not have the control of it in its present form. So every single fortnight, at the end of the year that 120 is still absorbed, even though that area is closed off.

The Hon. ROY SMITH: As part of the information you to provide the Committee, would you be good enough to include some of those figures for overtime and sick leave across the other prisons in the system, relative to the population and staffing of those prisons?

Mr McLEAN: Yes.

Ms SYLVIA HALE: Mr McLean, are the overtime rates, say at Goulburn and Surry Hills, less than at Cessnock and Parklea? Is that what you are saying?

Mr McLEAN: No, I am not saying that.

Ms SYLVIA HALE: They are more?

Mr McLEAN: I am saying that comparatively, in those particular areas you mentioned, Surry Hills in particular, that has a huge influx. It is the front end of the system where we receive in off the street. That, in itself, goes to very high overtime, and it is through court directions that we have to staff at certain levels. We do not have a choice. When it reaches a certain number of inmates, through court directions, we have to place overtime in there. In Goulburn, we also have the situation where it is a maximum security facility. It is currently being restructured in terms of the management plan. I addressed that only in the last couple of weeks. One of the concerns there also is overtime. We do not deny that.

Mr WOODHAM: May I say something about Surry Hills. That is where the highest overtime earner was in New South Wales last year. He earned more money than the general manager or the superintendent of the jail. The reason being that they have control of their own rosters. One of the other strategies that were put in place was centralising rosters, to get away from that, because they would only roster their own on and no outsiders could come in. When you talk about equalisation of overtime, it did not even exist. The people there were very greedy and worked excessive amounts of overtime because they virtually had control of their roster.

Ms SYLVIA HALE: But there, you are talking about the problems that exist at Surry Hills?

Mr WOODHAM: Yes.

Ms SYLVIA HALE: Yet, the privatisation was proposed at Parklea and Cessnock. Are you lumbering Parklea and Cessnock with problems that are just endemic right across the system?

Mr WOODHAM: No. You mentioned Surry Hills, and I just took that a bit further.

Ms SYLVIA HALE: Commissioner Woodham, could you tell me how many employees have been prosecuted or disciplined over the last five years for fraudulently claiming overtime?

Mr WOODHAM: Not offhand I cannot, but I can take that on notice.

Ms SYLVIA HALE: Do you feel it is a large or significant figure?

Mr WOODHAM: No, there are only a couple.

Ms SYLVIA HALE: All overtime that has been worked has been legitimate and in accordance with the appropriate procedures?

Mr WOODHAM: I have always said publicly—and I will say it here again today—rotting is not a word I use, but manipulation, yes. If you have small work areas in charge of their own roster, it is obvious that they will look after their own—not necessarily in a corrupt sense. They will keep the outsiders out and they will

work there overtime themselves, as with the example I just gave of Surry Hills. In that case, the union even backed them up, that if we would not call them on first there would be industrial action.

Ms SYLVIA HALE: Could you tell me whether there is a greater or lesser proportion of corrective services staff employed at the superintendent or equivalent level than there was five years ago? I am interested in the ratios of front-line staff to superintendents and administrative staff.

Mr WOODHAM: As we said earlier, and as I said in my opening statement, when we reached agreement with the superintendents we clustered correctional centres and deleted 11 superintendent positions.

Ms SYLVIA HALE: It was my understanding that part of those agreements was that these positions were to be deleted. I thought about 38 people were involved. But in fact those people have been retained in the department's employment, rather than their positions—?

Mr WOODHAM: Most definitely, not at superintendent level.

Ms SYLVIA HALE: Or at any level approaching superintendent, such as assistant—?

Mr WOODHAM: Commissioned officers.

Mr McLEAN: You may be referring to commissioned officers in the executive service. That was an agreed position, with very, very difficult negotiations with that group of people and with the PSA as well. We deleted 52 positions from that area. We have been successful to date with removing all but 26 of those positions, approximately half. The reason for that is that the existing agreements with the POVB have been such that they are tied in to the deletion of those positions and the duties. Up until this time we have not been successful in negotiations in being able to look at how we can manage with the POVB. Those agreements that we now have will start to reduce, the new management plans and the new staffing levels, for the remaining 26.

Ms SYLVIA HALE: Are those 26 officers engaged in front-line activities, or what work do they undertake?

Mr McLEAN: It is not specifically any person. It is 26 positions across various correctional centres in New South Wales. It does not relate individually to a particular person; it relates to a position.

Ms SYLVIA HALE: Of the 52, how many of those individuals have left the department's employ?

Mr McLEAN: At this stage, through attrition, we have in the executive ranks approximately 400 executives. That relates to the full number that is required under the existing agreement, and normal attritional promotions. Until we get to the point where we delete the first 26 and assess that, at this stage we do not have a surplus of the numbers.

Ms SYLVIA HALE: Of that 52, how many are still employed by the department, because it was my understanding that part of the salaried packaging was that these people would cease to be department employees?

Mr McLEAN: Again, with respect to your question, I think I have answered that in as much as it is not a particular person; it is a reduction of dollars, a reduction of a position.

Ms SYLVIA HALE: Have they remained at that executive level?

Mr WOODHAM: We have an agreement with them they will be deleted, and they will be ultimately deleted.

Ms SYLVIA HALE: What is "ultimately"?

Mr WOODHAM: They will be deleted and the COVB have no difficulty with it.

Ms SYLVIA HALE: There is an argument that in fact the use of overtime has been the mechanism used by the department to deal with staff shortages. What is your response to that?

Mr WOODHAM: It is not true. I have already said that today, and it is mainly due to sick leave. The unions say that in the last 10 years the inmate population has grown by 60 per cent when in fact it is 41 per cent. They also say that we have not employed extra staff to cater for that increase in inmate population. That is not true as well. As I said earlier, there has been a 41 per cent increase in the inmate population and a 40 per cent increase in staff.

CHAIR: Your time for questions has expired.

The Hon. GREG DONNELLY: Continuing on where I left off earlier, commissioner, are there any prisoner related services currently being carried out in New South Wales public prisons by the private sector and, if so, can you give an overview of it?

Mr WOODHAM: Can you repeat that question?

The Hon. GREG DONNELLY: Are there any prisoner related services currently being carried out at New South Wales public prisons by the private sector?

Mr WOODHAM: We have privatised the boom gates and perimeter security and that came about as a result of protracted industrial action over the boom gate at Long Bay and the decision was made, again by the budget committee of Cabinet, to privatise boom gates and perimeter security.

The Hon. GREG DONNELLY: With respect to the question of the overtime and sick leave, which have come up throughout questioning this morning, am I right in thinking this is not a question of abolishing overtime and taking away sick leave entitlements?

Mr WOODHAM: No.

The Hon. GREG DONNELLY: It is more an issue of better management of overtime arrangements?

Mr WOODHAM: Exactly.

The Hon. GREG DONNELLY: And ensuring sick leave is taken when it is entitled to be taken?

Mr WOODHAM: Correct.

The Hon. GREG DONNELLY: On the question of savings of \$15 million, earlier you made reference with respect to a line of questioning of Ms Hale that savings were seen to be around \$15 million going to \$16.1 million with respect to Cessnock and Parklea. Am I right in concluding that it is not just an issue of saving money? To give full context to your testimony today, it is far broader; it is not about reducing and making savings to the bottom line, is that the position?

Mr WOODHAM: One of the critical issues is running the system more effectively and reducing wastage but privatising Parklea and Cessnock is only part of the reform package, which covers centralised rostering, a new absenteeism policy, recruiting of casuals and those types of things I referred to earlier.

The Hon. HELEN WESTWOOD: You spoke earlier about the waste that the budget subcommittee of Cabinet looked at, and how you could reform the service and get it back on budget. Other than some of the areas to do with work practices and new agreements with the correctional officers, can you tell us any other proposals that the budget subcommittee considered?

Mr WOODHAM: They considered the Grafton proposal with the feasibility study with a view to public or private design, construct and operate. They considered that and that has to go back to the committee. They considered the boom gate in perimeter security and all the other aspects of the reform package that I referred to earlier, and the court and escort security.

The Hon. HELEN WESTWOOD: You also spoke in your earlier evidence about the advantages with the private sector buying locally its services and so on. You said the Government could not do that. Could you explain why and did the budget subcommittee consider measures that could overcome those factors that prohibited government services or government-run prisons buying services locally?

Mr WOODHAM: We are locked into government contracts and, as an example, hypothetically, if Kempsey were private, the vegetables might come from Sydney whereas at Junee they can go down and negotiate with local farmers and buy their potatoes locally. Our cars could come from Sydney for every jail in the State. At Cessnock the privateers would probably purchase their vehicles in Cessnock. There is a big difference and a big advantage for the community, the town and the business side of town.

(The witnesses withdrew)

(Short adjournment)

STEWART LACHLAN CALDER LITTLE, Senior Industrial Officer, Public Service Association of New South Wales, GPO Box 3365, Sydney, New South Wales, 2001, and

STEVE TURNER, Assistant General Secretary, Public Service Association, GPO Box 3365, Sydney, New South Wales, 2001, affirmed and examined:

MATTHEW BINDLEY, POVB State chairperson, 160 Clarence Street, Sydney, New South Wales, 2000, sworn and examined:

CHAIR: I welcome all representatives to the hearing from the Public Service Association. Do any of you have an opening statement?

Mr TURNER: Yes, I have an opening statement. Before I start that, I wish to clarify one point. In the last session, there was a lot of talk about POVB and COVB, and, at one point, superintendents. They are all members of the same union, which is the Public Service Association. They are just different vocational branches covering superintendents, commissioned officers and prison officers. The reference to POVB and COVB is a reference to the union.

The Public Service Association is preparing a full submission to the inquiry and will submit this by the deadline this Friday. We are surprised the inquiry has commenced prior to the deadline, but we will make the following comments subject to our full submission this Friday, and would welcome any further input to the Committee once you have considered that submission. As a matter of basic principle we do not believe that prisons, nor any other operations of corrective services such as transport, should be run for a profit. The administration of justice is a core function of the state: the allocation of justice cannot be separated from the administration.

The commissioner argues that privatisation is required because of a high overtime bill, but the simple fact is that an inability to manage overtime is no reason to privatise a fundamental part of our justice system. Public policy should be based on evidence. There is no evidence to show that the private sector provides a superior service, either on cost or quality. In fact, there is a range of evidence to the contrary. The PSA understands that academic Jane Andrew will make a submission to the inquiry. We support her work and ask that the questions she will raise be seriously considered. Costs should not be the only factor. Social inquiry should also form the basis of the comparison. The PSA also submits that it is difficult to equate a single cost per inmate figure whenever there is a comparison between a modern-built prison like Junee and a system which includes some of the oldest prisons in the Southern Hemisphere.

Department of Corrective Services evidence to the Public Accounts Committee's 2005 inquiry, "The Value for Money from New South Wales Correctional Centres", suggests that the modern government-run centres are cheaper per prisoner than is Junee. Further examples from interstate and overseas show that where big corporations run jails, standards suffer, staff numbers are reduced, and rehabilitation services are cut. Our submission will detail some of these failures and will note that many of those companies have been short-listed to run the New South Wales prisons that are being privatised. There are also many examples of failures in privatising transport or justice areas, such as South Australia, Western Australia and a current record in New Zealand where a department is in fact paying twice to transport prisoners.

Before such policy decisions are made by government, there should also be a study of the impact on the affected community. Cessnock is one such example because there it will have an immediate impact on job numbers, affect family income, and break up family and community ties. Such decisions will devastate that community. Do these costs outweigh the benefits gained by proceeding? The PSA submits that we have been a party to the modern reforms in New South Wales Corrective Services. We negotiated and reached agreement on a new award for the last three jails built and that has led to favourable comparisons I have already mentioned.

The PSA has negotiated and reached agreement on new awards for governors, who are now known as superintendents, and deputy governors, and for the next group of custodial personnel covered by the commissioned officers vocational branch. We remain open to negotiate the final group of front-line prison officers. We are open to discuss improvements in the management of staff: Our door is always open. We believe that before privatisation is contemplated, the department and the PSA should be asked to follow the maintenance

program, as announced in the latest mini-budget, to look at the operation of the remaining prisons and work towards restructuring to achieve benchmark performance.

All previous privatisations by the state have occurred with legislative protection for the workforce with three-year guarantees for jobs and corresponding protection for wages and conditions—but not here. The whole process seems to be an effort to attack the unionised workforce of Parklea and Cessnock. It is reckless in that it places the agenda of managers ahead of the public good. In these economic times governments are moving to protect employment and protect and enhance the spending power of these employees. This privatisation will reduce staffing and affect local communities.

The justice system is integral to our democracy. Jail is the ultimate sanction for those who do society wrong. It must remain the responsibility of governments to manage jails and not pass the responsibility over to a corporation to run jails at a profit for their shareholders. I will make a couple of comments in relation to some of the evidence given this morning. First of all, the PSA would submit there is more negotiation between the Department of Corrective Services and the PSA than is the case with any other government department in this government. Secondly, Ron Woodham has the personal mobile phone number of John Cahill, and often utilises that when there is a problem to ring up and resolve issues, at all times of the day and night. The issues are often resolved through those telephone conversations.

There is a further point that all sorts of figures were given for the cost per inmate of the bureaucracy. The bureaucracy in Corrective Services is large, and we are not making a comment on that: But the more prisoners you take out, the fewer are the prisoners you look after as a bureaucracy. The cost per inmate will rise, not reduce, for that bureaucracy. There is a lot of talk about overtime and comparing it to sick leave, etc. Since the eighties or even longer, prisons have operated on things called operational agreements, which are agreements reached between the local prison officer group and local management. They are consent agreements. They refer to what happens in times of absence, what goes on, what processes are put in place, and when overtime is used when lockdowns occur. If the operational agreements are not working, the current prison system should be examined by management instead of just blaming it on some individuals who remain within the prison system.

There was also evidence given that the current operational agreements operate on 209 roster arrangements whereby people do 209 days a year on their roster. One of the difficulties with that is that in recent years, with changes in social attitudes by employers, governments and industrial commissions, the rosters should probably be on a 191 arrangement now. The rostering for 209 working days a year does not take into account FACS leave, increased maternity leave and other forms of leave. If you take Cessnock as an example and the budget for overtime at Cessnock on the entry level prison officer wage, most of the prison officers at Cessnock are year four, first class and are therefore paid overtime rates two classes above what has been budgeted for. We say they budget incorrectly. There is not an overtime blow-out in the Department of Corrective Services. There is also another complication or unpredictable event that leads to overtime. If an inmate at Long Bay jail has a heart attack, he is escorted to a hospital to be correctly dealt with, looked after and to recover, which means six overtime rosters a day to look after that person. There will be two officers by his bed constantly and three shifts a day. There are six overtime shifts a day, and that is not budgeted for. How can anyone budget for overtime that is produced by heart attacks, et cetera, within the system?

The final point I wish to attest to is the benefit within the community. It is all right to recognise an increased benefit for the community when you build a new jail in a community such as at Junee, but when you have a jail already in that community, which is the case at Cessnock, and you privatise it when the whole reason for privatising is to attack the unionised workforce, to have fewer workers on-site and pay them less, you are actually taking money out of the community, not putting more money into the community. Jails like Cessnock used to buy its produce from the local area and then was directed by the department, presumably for correct government budgeting Department of Commerce reasons, that it had to do it through the contracts of the public service so it was not allowed to proceed with those benefits. That is our opening statement. Thank you very much.

Ms SYLVIA HALE: Mr Woodham made reference to working parties that had been set up to discuss changes to arrangements. I think he said they had been set up late last year. Have those working parties taken place? Have they met?

Mr BINDLEY: Those working parties were, in fact, set up in late 2007. There was a couple of meetings held in relation to them but they fell over very quickly. We asked time and time again what the

scheduling and time frame of them were going to be and nothing ever really eventuated out of it. We had a couple of meetings in relation to Long Bay boom gate, that was part of it but, as you know, that was very quickly privatised so the discussions, whilst I think they were done in good nature, they did not really occur to anything that was meaningful.

Ms SYLVIA HALE: As a union have you been consistently provided with documents as to what is involved in the way forward? Have you been able to respond to the strategy papers?

Mr BINDLEY: The way forward as we know it today is vastly different to what was proposed and shown to us in the early stages when we were told that the way forward was coming. We were very unaware that the way forward was going to be these seven points of reform that were delivered to us on 18 August. Previous to that we were led to believe that the way forward would contain different work practises that streamlined it to the betterment of the department and Treasury, more or less. There was no mention of privatisation or centralised rostering, or any of those points.

Mr TURNER: There is also the point that when we were first approached in 2003 effectively, the way forward was what was talked about for the new jails, Kempsey, Dillwynia and Wellington. We reached agreement on those. They were changes to rostering procedures, changing to rankings, changing to overtime procedures and we reached consent agreements on the way forward in those areas. They have been put in place and I think they now call them the island agreements, as they were referred to earlier today. They then came back to us late 2004 for Governors for the way forward and we negotiated a new award for what are now called superintendents and that was way forward as we knew it then, and we participated in it and reached consent. Then they came to us late 2005, early 2006 and talked to us about way forward for the COVB and we reached a consent award and agreement for that. So the way forward has been a flexible policy, if you like, and for three of those stages so far we have reached consent agreements with the department.

Ms SYLVIA HALE: When you were negotiating the consent agreement was there discussion of privatisation or the potential for privatisation thereafter?

Mr TURNER: Yes.

Ms SYLVIA HALE: What was that discussion?

Mr TURNER: It was quite clear that if we were not to reach new agreements for the new prisons that privatisation could be on the agenda but that is not the only thing that dictated or drove our discussions. When you are talking about how a brand new prison can work, if you go to Kempsey it has cells, the officers can sit in a watch area and meet people in and out and guard and move people around a lot safer than they can in a prison built in the 1800s. So there are all sorts of issues about how you reach new consent agreements and ways to operate in new prisons to what you can do in the old prisons.

Ms SYLVIA HALE: Do you think it is fair to draw a direct comparison between the staffing numbers and overtime and the ways in which Junee operates compared Cessnock or Parklea?

Mr TURNER: No.

Mr BINDLEY: Unfortunately I cannot speak in relation to Junee because I have not had a good, close look at its operations. What I can say is that over time as the department builds new jails it builds them in a way that they do become more user friendly. They are specifically built to the needs of what the department wants. As they do that they become better in architectural design so therefore it enables us to use less staff than what we do in traditional jails that are built in the 1800s.

Ms SYLVIA HALE: One of the points of discussion was the use of central rostering. This was suggested as a way to overcome many of the manipulations, I think Mr Woodham called it, of overtime. Do you have any comments about central rostering? What are your feelings about it?

Mr BINDLEY: I think it takes away from the personalised nature of rostering people from work. We go from a family friendly situation where people know each other and their needs on the ground to a situation where employees are treated like numbers or robots and just given a roster and expected to do it. The uniqueness about having a roster clerk within inside a jail is they get to know people on a personal basis and also their needs as a family member or social needs, sporting needs, et cetera and they are able to address those needs face to

face. You have to understand also that roster clerks are primarily somebody who do look after staff as best they can. They cater if they can to our needs. Whereas if you lose that function and you lose the face-to-face contact, as I said, all of a sudden we do just become numbers and people work in an unknown environment.

Mr LITTLE: The other thing I would like to add is that often jails are quite complex where they have a number of categories of inmates within the jail. So you will have maximum security, medium and all types of classifications. Obviously you have quite a number of inmates coming through the system and having those roster clerks there on the ground they understand who is coming through, they understand the needs of the particular areas. As we have said some of these jails are very old. Long Bay which is quite well known in Sydney, was built in 1909 and it is effectively a rabbit warren if you go through it. Having those different classifications of inmates, the roster clerk knows precisely, has a good understanding of which officers are where and, if you like, the complexities of the situation which changes from time to time.

Mr TURNER: Also Ron Woodham gave a reason why you needed a local roster clerk when he said there are some officers who like overtime and some who do not. That is not necessarily—I cannot remember the negative word he used—bad. Some people do not have children, sporting ties or have to participate in local clubs so they do not want to spend more time at work. There are others who have more free time, maybe single, maybe wanting to save for an overseas trip or a yacht and they want to put themselves forward. That is the reason why it is good to have it localised.

Ms SYLVIA HALE: To what do you attribute the blow-out in budgeted overtime? Is there a primary source of that problem?

Mr BINDLEY: There are a number of different reasons why. I think the first real reason is the unpredictability of inmates when they take ill. As Steve said previously, every time an inmate is required to go to hospital for a 24-hour period that incurs six shifts of overtime. We have inmates that can stay in hospital for extended periods of time. The other major component is that as the inmate numbers have grown over the past 10 years the department seems to have this adage that sometimes it is only a temporary basis so what they will do is the scenario will be if you take "X" amount of inmates we will give you "X" amount of staff but those staff that they give us are not actually put onto the staffing formula as full-time permanent positions. They are done of overtime.

Ms SYLVIA HALE: Why do they do that?

Mr BINDLEY: I am not exactly sure of the reason. I have heard a number of times people from within the department say that overtime is cheaper to do than create a full-time position. I do not know if there was a real expectation that inmate numbers would fall or it was just that the department has also been waiting to, I suppose, conclude the way forward and try to have it all wrapped up in that.

Ms SYLVIA HALE: Is it your view that overtime is cheaper than paying full-time staff? Have you done an analysis?

Mr BINDLEY: I have not done anything that gives you the real facts and figures but I do not think overtime is better than full-time staff. We would much prefer to have full-time staff than a continuing system where it is run on overtime.

Ms SYLVIA HALE: Mr Woodham suggested that there was going to be a greater use of casuals. He said those casuals would be trained to the same level as probationary officers. Do you have any comment on the use of casuals within the prison system?

Mr BINDLEY: I think it has got the potential to be very dangerous. When you have people who work periodically in different locations they do not get a full understanding of what is happening in each particular area for an extended period of time. When you consider that our major job is to deal with inmates we do get to know what they are like, their personalities, what makes them tick, when someone is having a good or bad day et cetera. You get to know the continuity of the jail, what is happening around the jail, the staff. It is one of those things that you can only really pick up when you are there day in day out to get the feel of the place, build up trust with the people that you work with and just know the basic functions of very centre.

Mr LITTLE: Certainly it is something which many of our members across the State have raised great concerns about, not knowing whether the casual may be someone that has just worked a 12-hour shift and been

called in. Understand that a lot of our members have been in riot situations and things like that. Goulburn had a riot, I think, in about 2002 or 2001. I know members in that maximum security jail had great reservations about it. It is a very old jail. Goulburn was built in 1863. To expect someone just to walk in on a casual and intermittent basis, it seems rather odd to put someone in that situation.

CHAIR: The Hon. Roy Smith may now ask questions.

Mr TURNER: I just want to add that our union as a whole is committed to permanent work. I believe also that this Government is committed to permanent work that allows full security of employment and makes sure that you are controlling your employees rather than using agency staff, which tends to be more costly in the long run.

The Hon. ROY SMITH: I had only one question. Earlier the Commissioner referred to the fact that the increase in overtime had happened since the late 1980s and it had increased over that period. Over those past 20 years has management approached the unions or the association and said that it has to address the overtime issue, as it is getting worse? When has the issue of overtime be raised in the past? What has been done in the past to try to reduce overtime?

Mr TURNER: As I said in my opening statement, the department regularly comes to the union, normally at the local level, and negotiates operational agreements. Those agreements are the ones that they have agreed to and put in place. Often departments come to us and say that they are a bit concerned; the Government as a whole comes to us and says they are a bit concerned about sick leave. We repeatedly say that that is a management issue, for management to manage. If they think someone is rorting sick leave, then look at that person and sort him out. There is nothing that can be put into an award that will stop someone or manage sick leave. That is management's role to perform.

Ms SYLVIA HALE: Are you aware of any independent study by a third party of operations at Junee? I know it is a private facility.

Mr TURNER: Junee is a very hard place to find out information about. It is very hard to compare budgets because they will not give a budget for commercial and sensitive natures, competing tendering, et cetera. It is very hard to get information of their programs. Junee is almost like a closed shop.

Mr LITTLE: One paper I read was produced by Parliament, through the Parliamentary Library. Lenny Roth, one of the researchers produced a paper in about 2004, which looked at Junee—certainly, a number of the contractual breaks where they had not met their contractual arrangements. I recommend it to the Committee; I know it is available. They do talk about the frequent breaks where the contracts have not been met, but no real penalties are involved. That is one of our concerns with private operators, as to how they are monitored, how they are run, within the public sector, and who they are accountable to. If they do not meet their contractual arrangements, there does not seem to be any penalty involved.

Ms SYLVIA HALE: The commissioner gave a number of instances of staff who had attempted to comply with the department's wishes had been intimidated. He also mentioned an incident of IT being dysfunctional because people were playing games on the network. He also spoke about a break-out. Would you like to comment on any of those instances as to when they occurred and your response?

Mr TURNER: My initial response, and I thought about it when the commissioner was talking, was that the Public Service Association [PSA] as a union absolutely abhors intimidation, bullying and harassment in the workplace. We have researched various departments and found out where it exists and have developed with Unions New South Wales a document called *The Dignity and Respect Charter* and the *Workplace Charter*. We go around and get all government departments to sign that. It has a program in place of training, activity and management intervention to prevent bullying and harassment. I have made a note to myself to go back to the office and make sure that Corrective Services has signed it.

If it has not, I will have Ron Woodham sign it tomorrow, seeing he is so concerned in stamping it out. That sort of activity would not be supported in any workplace. We certainly do not support it in prisons. It has never been raised with the PSA as an issue that has occurred and needs to be stopped. We will take it up with Ron Woodham and make sure there is no bullying and harassment going on, and that there is dignity and respect in every single workplace in Corrective Services.

Mr LITTLE: I add to that. Corrective Services has a number of internal affairs agencies. It would astound me in an organisation like that if there was any form of wrongdoing that would not investigate it fully. They would use their full resources to investigate. I was not present when Commissioner Woodham was talking about that, but any wrongdoing like that, as an industrial officer who often has to represent people who are charged with misconduct and the like, I would be astounded if they would not investigate to the fullest degree.

Ms SYLVIA HALE: If the IT system, for example, were being used for people to play games or whatever, would that be a problem with the officers—which it clearly is—but also equally a problem with the supervision? Is that correct? Or is it a problem with administration?

Mr LITTLE: In any public service department there have been instances. Unfortunately the odd person here or there has done that type of thing. Generally they are picked up by IT and generally are charged with misconduct. That has been my experience. They are dealt with by management.

Ms SYLVIA HALE: The commissioner seemed to me to be doing a curious dichotomy. He seemed to suggest that the union may not be too bad but its members are obdurate and uncooperative. He said that even you, as union officials, would probably encounter that and that you had no control over your members. Do you have any comment on that?

Mr TURNER: We have total control over our members. Since the union has to operate according to rules that are registered in the Industrial Relations Commission in New South Wales, we make sure that we operate with dignity and respect and in keeping with what society expects of any employer or of any group of people. We have vocational branches, which are the democratic representatives of the groups in each department and we ensure that they work within the letter of the law and within the rules of the PSA and come down hard on anyone who does not. We are not aware of any of the instances raised today by Ron Woodham. In fact, he seemed to be on a union bashing exercise. We are not quite sure why that is being used to justify privatisation. Surely you would want to look at the economic and social reasons for privatising, not some allegations against the union that are unproven.

Ms SYLVIA HALE: Did Mr Woodham or anyone from the department fully explore with the union the alternatives to privatisation of Parklea and Cessnock? Did you ever have a detailed discussion of how that outcome might be avoided, or the alternatives to it?

Mr TURNER: As I said, the union has been working with this department and Ron Woodham and all of his people since 2003 to ensure that public sector prisons are benchmarked to best practice. We have demonstrated that at three different levels we have reached agreement with the department. We were as shocked as everyone else. The mini-budget does not say that two prisons were to be privatised. We got a phone call that afternoon saying that Parklea and Cessnock were to be privatised. We looked at the mini-budget, but all it said was that we are going to move forward with the way forward. We have been moving forward with the way forward since 2003. Ron Woodham demonstrated to the Public Accounts Committee that Kempsey operates cheaper and better than Junee.

Mr LITTLE: The first that we heard about Cessnock and Parklea was on 18 August. I am pretty sure of the day because we read all this stuff in the media that morning, which obviously have been fed to the media over the weekend. We attended a meeting with the commissioner that day and that was the first we heard that Treasury was market testing. Since that time there has certainly been no negotiations entered into with us in respect as to why or how we could do it better, or to negotiate on some alternate arrangements will stop that certainly has not happened.

CHAIR: We will now take Opposition questions.

The Hon. JOHN AJAKA: I understand you were present when Commissioner Woodham gave evidence earlier.

The Hon. TREVOR KHAN: Not all three witnesses were present.

Mr TURNER: I was present, Mr Bindley and Mr Little were not.

The Hon. JOHN AJAKA: From my perspective, the impression I got from the commissioner, to put it in its bluntest form, was that he was laying all the blame on inefficiencies and the fact that one had to look at

privatisation. I said "on the unions" but he would say "not really the unions but on their members". What is your view on that?

Mr TURNER: I think it is rubbish. As I said, we have moved forward. We negotiated a consent award that applied to the three new prisons, that was our members. We put those awards to a vote of our members before we agreed to go. We negotiated an award, we went to a ballot of our members, our members voted for that award. So our members agreed to it. Then we registered it in the Industrial Commission. Our members from around the State then applied to work in those three jails, or new people were employed. Some of our members went from other areas of the State to work there. At Kempsey, for instance, they have trouble getting able to come in on overtime because living in Kempsey or Tweed Heads it is an attractive place to not work too much overtime.

They came back to us in late 2004, they wanted to negotiate the governors and deputy governors. We have agreed that instead of having one governor and deputy governor in every jail, we would cluster the jails and would have one governor and a couple of deputies looking after a cluster of jails. That was done by a consent award. The same happened for the Correctional Officers Vocational Branch [COVB]. Each change was done by negotiation with the union and voted for by our membership. So it had the support of our membership at each step. No one has come back with that type of activity for the Prison Officers Vocational Branch [POVB].

The Hon. JOHN AJAKA: When the Committee hears about the amount of overtime, and the costs of overtime, and the blow-out in the budget which is well over double, is there a problem with the number of staff? Is there a staff shortage problem? Is that the reason for overtime?

Mr TURNER: Yes. We believe staff numbers have not kept track of inmate numbers. We put that in our submission. We disagree with the 41 and 40 per cent figures that Mr Woodham gave this morning. But, again, it was a bit like one of the questions from the Opposition: why budget for \$20 million if year after year you know that the budget is more \$40 million. As I said, there are lots of issues that you cannot budget for. Why budget for the lowest paid in the system where you have only officers at two ranks higher? How do you predict how many people have heart attacks, be badly injured, and need hospitalisation? Also, they are rostering to a 209 formula rather than a more modern formula like 191 to take effect of modern forms of leave, et cetera. We believe there is not an overtime issue, it is just a management issue with how they budget and plan their stuff.

The Hon. JOHN AJAKA: Do you have any figures or study information to show the actual shortage in the number of staff? If you have another 100 corrective officers would overtime numbers be reduced enormously?

Mr TURNER: I know I am giving evidence on oath here, but I remember looking at the figures over the weekend. The figures have gone from about 6,800 to more than 10,000 in terms of inmate numbers. That is an almost 4,000 growth over 6,000, that is a 60 per cent rise in inmate numbers. Yet, the front-line prison officer numbers have not grown by nearly that number. In fact, in the growth of staff in Corrective Services, the major growth in staff seems to be in administration. They are our members too, so I will not knock the growth in administration because there might be a very good reason why you need a growth in administration to administer your new prisons, et cetera. But certainly, there has not been a corresponding growth in Corrective Services officers to inmate numbers.

The Hon. JOHN AJAKA: That was to be my next question. It is not the increase in staff, but the reality is that they are not front-line officers who are taking care of or looking after the positions in regards to inmates. Seriously, there is a problem with shortages?

Mr TURNER: That is right. The document that Matt referred to of 18 August is when Ron Woodham put the proposal for 200 casuals on the table. If you know you need 200 casuals, why do you not need 200 staff?

The Hon. JOHN AJAKA: We were talking about casuals being potentially dangerous. You will have a serious fear for the safety of casuals and other officers. You will have a serious fear for the safety of inmates, if you were to use casuals instead of full-time permanent officers?

Mr TURNER: I think Mr Bindley gave an account of that.

Mr BINDLEY: Yes, very much so, all three. For the reasons that I gave before; you do not really get the full continuity of a correctional centre environment unless you work in there day in and day out. The only

way to become familiar with the jobs that we do, the people we deal with, the environment that we work in, is by spending time in there. Things can change very quickly within individual jails. Unless you are up to speed with it and involved with it or you know the process or are briefed on the process, you can be left behind. It becomes very dangerous when people do not know what is going on in jails.

Mr LITTLE: To add to that, recently we visited all the jails. The entire population of a jail may turn over in a month. It just depends on the jail. You have remand jails where inmates have not been sentenced and do not have appropriate classifications. It is quite a complex thing; it is not just an exercise of people behind four walls. There are so many people to look after, that you really need to go into the complexity of the jail. Is it a sentence jail? Is it a remand jail? And what is the classification of the jail?

The Hon. JOHN AJAKA: Are you aware of any instances where casuals have created a problem or an occurrence has occurred to date?

Mr BINDLEY: Not great problems. I actually work at Parklea so there are no casuals there but I have heard of problems where casuals just do not know what is happening or situations in particular jails where it is felt that more experienced staff are needed and the staff have actually had to say to management that they do not feel comfortable working with these people. The trust factor is not there from other prison officers, which is a pretty big thing.

The Hon. JOHN AJAKA: When we were talking about centralised rostering your point was that people know each other and you used the term "family friendly". You would appreciate from the complaints in relation to overtime that there is a perception that whilst you are family friendly you know each other and there is always the perception that you are looking after each other and taking care of each other in relation to additional overtime—that was the point that the commissioner was making. What are your views on that?

Mr BINDLEY: I think it is a little bit outrageous to be honest with you. Management are the people who control how much overtime is used on a daily basis in each correctional centre. For a number of years now we have asked to have structures put in place so that we can operate at a safe level on days where there is restricted staff that comes in. We have never actively gone out and said to the department that we need more overtime. I have personally suggested to management in the location that I work that a smarter way of doing things would be to have some reserves on the watches in the event of people going sick or absenteeism and they could just slide into those positions and it not be done on overtime all the time. Realistically rostered clerks are only working to the agreements in place in each correctional centre; they do not call over and above what the agreed levels are.

The Hon. TREVOR KHAN: Mr Turner, the figures given were that inmate numbers some 10 years ago were at 6,830 and as of 2007-08 there has been an increase to 9,618. I assume Commissioner Woodham's mathematical calculation is correct when he said that is a 41 per cent increase. One of the comments made by Commissioner Woodham in his evidence, both at the start and he repeated it on two or three occasions, was that the assertion has been made that the increase was 60 per cent and not 41 per cent. Are you wedded to a figure of 60 per cent increase in prisoner numbers?

Mr TURNER: I would prefer to take that on notice. We will research it properly and that will be in our submission on Friday.

The Hon. TREVOR KHAN: That is fine. He also said that the staff increase has been from 3,377 to 4,472—

Mr LITTLE: Is he talking about custodial staff? Sometimes in the annual report—and I have looked at them—when he talks about operational staff he includes program staff. I think that is where you may need to look at the distinction and also whether you have got staff who are called "custodial staff" who do not actually work in a prison but work at the Henry Deane building and work in head office—there are quite a number of senior uniformed officers that do that. When we talk about those numbers we are talking about custodial officers that work in jails.

The Hon. TREVOR KHAN: The figures that Commissioner Woodham has quoted are the figures that I have given. What I invite you to do is to give consideration in your submission to whether those are the numbers that you are comfortable with and if they are not you should tell us.

Mr LITTLE: Yes.

The Hon. TREVOR KHAN: Would you agree with the proposition that in terms of the numbers of prison officers required to look after a jail, because of your staffing formulas if a jail is three quarters full you are going to have the same number of prison officers present as if it were full? There is no flexibility to reduce the numbers simply because it is not an optimum level?

Mr LITTLE: If only they were three quarters full! I have got the statistics here since 1974. You will see that they just go up and up and up. If only we had instances where we had jails that were three quarters full. Most of the time they are full and the pressure is on to place more inmates in there and to put more beds in there. I will let Mr Bindley take that further.

Mr BINDLEY: Just on the opening phrase you made in relation to the number of inmates who are in custody, I know as of last week it was 10,150—it has gone up significantly over the period of time that you talk about. In relation to jails specifically I will draw the analogy with Parklea. When Parklea opened in the mid-1980s there was approximately 220 staff to approximately 230 inmates. Today as it stands there are 242 staff to 823 inmates. That is a rapid rise in inmates against the ratio to staff. We have always been more than willing to negotiate those types of aspects and try and do things in the best possible way, bearing in mind the financial impact it has not only on the department but to the Government and the taxpayer as well.

The Hon. TREVOR KHAN: Gentlemen are you able, in terms of the various prisons, to identify how many prison officers you say have been in those institutions over a period of time and how many prisoners have been there over those periods of time so we can get some sort of idea as to what the actual frontline position is? Is that possible?

Mr BINDLEY: Yes.

Mr LITTLE: On notice, yes.

Mr TURNER: To the degree that we can get that information, we will collect it and provide it.

The Hon. TREVOR KHAN: I accept that it may not be the easiest task in the world but anything you can give us will give us a basis to take some sort of rational position. Could I say to you that one of the problems is that a lot of what is said is non-empirical and a lot of it is pretty woolly and if you can give us some hard figures it makes it a more intelligent debate.

Mr TURNER: Maybe it is spelt "Woody".

The Hon. TREVOR KHAN: Do I take it that casuals are used at Junee?

Mr BINDLEY: I am lead to believe they are.

The Hon. TREVOR KHAN: But you do not know of the experience at Junee in terms of how they are used?

Mr TURNER: No. Anecdotally we hear things, like the prison officers know how many beds there are in Junee and therefore they know how many vacancies there are and if someone needs to go to jail and they ring up and ask them to go to Junee, if Junee do not have the right number of people on they will turn those people away so that they must come to our facilities. We hear anecdotally when people ring up Junee they just lock them down more etcetera but no-one has been able to get that information in concrete sort of way. That is why we say the operations in our centres are much better for staff and for the inmates.

The Hon. TREVOR KHAN: Maybe we will find that out in a less than anecdotal way in due course. Would it be the case when we talk about casuals that the perception has been that what we are talking about is somebody pulled off the street who has worked at McDonalds'—that seems to be almost what is described here?

Mr TURNER: I think Matt has said it twice now today, I think the importance is to have permanent staff at the centre so they get to know the individual inmates, they know their temperaments, they know when it changes, they know what is going on and they know the routines. "Casual" by definition is someone who will

come from time to time as needed and therefore is not familiar with the day-to-day operations of what is going on.

The Hon. TREVOR KHAN: I therefore suspect you know what I was next going to put; that a number of the casuals you will find that come into these institutions are in fact prison officers who have chosen to move into essentially a part-time or casual role, having had quite a deal of experience within the prison system and perhaps at that jail? That would be the case, would it not?

Mr BINDLEY: The first lot of statistics that came out of the class of 67 that the department engaged as casual officers, only two or three people had prior knowledge of the Department of Corrective Services or had worked within a correctional centre environment.

The Hon. TREVOR KHAN: The nature of employment is changing and the nature of how people work is changing over time. People now have a lot more flexibility, do they not, in the way they look at their employment? Some people choose to work casually and will have had experience as prison officers?

Mr TURNER: The Public Service Association [PSA] is committed to these prisons staying public and we will discuss and negotiate with the department arrangements to ensure that each prison operates effectively and properly in operating the right programs but remains public. This should not be about trying to attack working numbers and conditions and salaries purely to try and make it cheaper for the Government to run justice in this state.

The Hon. TREVOR KHAN: I understand your position. We have already in New South Wales Junee, do we not?

Mr BINDLEY: That is correct.

The Hon. TREVOR KHAN: Do I take it that Junee came into existence with relatively little resistance from the PSA? You did not die in a ditch over that one?

Mr TURNER: We probably did, but in those days we were reporting to the Greiner Government and we were sort of fighting on all fronts at that time. We had a new Industrial Relations Act, we had the Government trying to bargain department by department and we had privatisations going on all over the place. I cannot remember historically the exact fight for Junee but we do not like private prisons in this system because we do not think they are run as effectively, efficiently and safely for either the inmates or the staff.

The Hon. JOHN AJAKA: Following on from the point raised by Mr Turner, is your concern that you are taking two public jails and suddenly privatising them as opposed to if one were to leave the status quo as it is? Do you have a problem with new jails being purpose built for the private sector?

Mr TURNER: We believe jails and corrective services should remain government owned and government run. That is why when the Government said it needed three new prisons: Kempsey—known as the Mid-North Coast Correctional Centre—Dillwynia and Wellington, were being built we entered negotiations to ensure we could prove we could benchmark them and make them work efficiently and effectively but keep them public, and we did that.

The Hon. JOHN AJAKA: If the status quo was maintained with the two current facilities being looked at by the Government for privatisation but new further jails were going to be built by the private sector, you would still have the same concerns?

Mr TURNER: We would have the same concerns, yes. We would like to see the justice system remain in public ownership.

The Hon. JOHN AJAKA: I was interested to note that Mr Bindley indicated that the number of inmates in jails basically today was 10,150 whereas the commissioner had earlier mentioned it was 9,618—

The Hon. TREVOR KHAN: No, he was dealing with it in a different timeframe.

The Hon. JOHN AJAKA: Alright. There has been an increase of another 500. Noting that there seems to be a continual increase—if one takes that assumption to be correct—do we currently have sufficient jails? Do

we currently have sufficient facilities for the number of inmates or are we simply cramming more and more into the same areas?

Mr BINDLEY: It is a bit of both to be honest with you. We currently have some parts in jails closed down across the state that realistically should have been opened some time ago when we were hitting these critical numbers. As we stand now there are parts of Long Bay reopening to cater for the spike in inmate numbers. It has been proposed that what I know as John Maroney II is being reopened. But it is also a situation that prior to this the department squeezed extra inmates into correctional centres through the use of overtime shall we say.

Mr LITTLE: Just to add to that. I think you need to understand in the last 10 years there have only been three correctional centres constructed and, as Mr Turner said, they are ones that we sat down and negotiated and they are on a more competitive footing than private—that is on Mr Woodham's own submission. If you look at some of the centres that we have got in this state it is important that the Committee understands the lot of them were built the century before last. Parramatta was built in 1842, Berrima was built in the 1840s, Grafton was built in the 1800s, Goulburn was built in 1863, Bathurst was built in 1888, Cooma was built in 1873 and so on. It is important that you then contrast that with other states.

The Hon. JOHN AJAKA: If we are looking at efficiencies and savings in time, for instance, is the answer that one should seriously look at these very old facilities and wonder if they should be modernised?

Mr LITTLE: I think you need to take stock of reality and benchmark those and compare apples with apples. I think it is really unfair to compare a jail like Grafton—we were there recently—with a jail like Kempsey and say Grafton is really inefficient, when it was built in the time of Charles Dickens, and ask why it does not operate as efficiently as Kempsey.

The Hon. JOHN AJAKA: Is the answer to knock it down and rebuild it?

Mr TURNER: I think Queensland has in effect done that. I do not think there is a jail in Queensland older than 1980. In answer to your earlier question, I believe Mr Woodham gave evidence that new jails are being built. One is at Kiama and Grafton will effectively be knocked down and rebuilt as a 650-bed facility. So the direct answer to your question is yes, they are building more jails to meet increasing inmate numbers.

CHAIR: We will now have Government members' questions and I will break my rule and ask a question. Mr Bindley, you talked about the prisoner/staff ration at Parklea when it opened versus now. I want to clarify that the figures you mentioned for the opening of Parklea were for a full complement of staff and prisoners or were prisoner numbers ramped up after the opening?

Mr BINDLEY: Both the numbers that I gave you were the maximum numbers for each discipline at the time.

The Hon. HELEN WESTWOOD: You have talked a lot about old prisons versus new prisons and how we cannot make direct comparisons. Is there a different staff ratio for the older prisons compared with the new prisons? I know there is a different staff ratio for maximum and minimum security. Does that same principle apply across purpose-built facilities or facilities built for this century? You also talked about inmates taking ill and the impact that has on overtime rates and rosters. Are there different incidences of illness at different facilities? Do some facilities have an older inmate population that may perhaps be more vulnerable to heart attacks, which was the example you gave, Mr Turner? Is that reflected in the agreements you have with Corrective Services for officers? Also, Commissioner Woodham spoke of island agreements as though they are part of the Way Forward program that we have heard so much about. Could you explain to the Committee the difference between the island agreements and agreements particularly with those facilities that have been identified for privatisation?

Mr BINDLEY: We staff each correctional facility to the needs the department caters for. Some inmates are a lot more labour intensive than others. Traditionally, inmates that require to do programs and who are on protection or segregation are a lot more staff labour intensive than the average run-of-the-mill inmate who is a category-sentenced inmate. When you look at things like that you could say that places like Long Bay that are very heavily orientated to programs have a lot more staff than a place like Bathurst. Both those places are old centres. Bathurst is a sentence jail with normal inmates that does not require the number of staff that Long Bay does due to the nature of the beast. You referred to the nature of illness. I think statistics will show

that remand inmates generally go to hospital a lot more often, whether for detoxification for drugs or alcohol or other substances that they have abused. The assault rates appear to be higher in a lot of remand centres than they are in correctional centres where the inmates are sentenced. A lot of that is due, number one, to the high numbers of inmates in these centres, and the other factor would be the unpredictability: a lot of inmates do not know what is happening in their life. They are uncertain, they get frustrated with the judicial system, and there is a gang element as well. So, yes, it is a lot higher than in settled centres.

The Hon. HELEN WESTWOOD: Further to that, have you been able to negotiate to have those differences reflected in the industrial agreements?

Mr BINDLEY: No.

The Hon. HELEN WESTWOOD: So your agreement does not allow for a difference from facility to facility to take account of those high demands upon officers?

Mr BINDLEY: No. The department's stance on that is that ultimately it all comes out of the same bucket of money. They have not been in a position to sit down or they are unwilling to sit down and look at the reflective figures from years past and say that history dictates that X number of inmates go out on hospital escorts so we should cater for those needs. That has never happened. It has always been a situation of reacting to the incident instead of preparation for the future.

The Hon. HELEN WESTWOOD: I have other questions but I will pass to Mr Donnelly.

The Hon. GREG DONNELLY: I have some questions about overtime and sick leave, which the Commissioner spent a lot of time addressing this morning. Just help the Committee understand the position with respect to overtime. Additional hours can be worked as a result of additional work being made available at the end of a shift, which was unplanned. A person gets to the end of a shift and there is work to be done and the employer offers that as overtime. Another example of overtime would be if someone rings in sick the employer gets on the phone and rings up another staff member and says, "Listen, we've got a shift going here. Are you interested in coming in and working overtime?" There could be other ways and means by which overtime is paid. Can one of you explain the nature of overtime in prisons? Are all hours additional to those in a person's roster cycle in any given week by definition overtime?

Mr BINDLEY: You are right in both things you said. Both those occurrences happen. You may have operations that are required after hours, that is once the inmates are secured in their cells. Staff could be asked to stay back for a period of time. Staff can be called in to fill a full eight-hour post or whatever length of time the post runs. We have never steered away from a position that if management wants to sit down and negotiate a situation, for argument's sake, in which they said, "We are only going to spend this amount on overtime hours in any one given day and once that is exhausted inmates will be locked in their cells for a period of time to keep the safety of the centre as well as work with a reduced level of staffing."

Mr TURNER: Another important thing that keeps being missed or not put forward is that in a jail like Cessnock where there is a lot of prison industry, people work to get certificates and come out re-trained to be able to work and be a useful member of the community. If you do not bring someone in on overtime when another person is off duty, you cannot safely escort those prisoners to the industries and have them undertake meaningful work. You may have to lock them down instead. Overtime allows the normal day-to-day activities to continue as opposed to leaving people locked in their cells for 20 hours a day and not allowing them to easily or safely undertake the industry going on in those prisons.

The Hon. GREG DONNELLY: Taking that example of the prisoners at Cessnock doing additional work, or doing vocational training of some description in other jails, would it not be the case that that is regularly organised so that one knows from week to week that they are going to be doing vocational training or be in the workshop doing particular work?

Mr BINDLEY: Those types of programs are the last option to be locked down. Neither Cessnock nor Parklea, for example, has been locked down in the last five years. We have always strived to have inmates go to the programs and industries they require under rehabilitation. It is the inmates that are not actively engaged in those types of processes that will potentially be locked down first if we need to restrict the number of inmates out in the jail.

Mr LITTLE: Another important point with overtime, particularly in relation to Cessnock, is that what are called prison industries are operating. Cessnock makes demountable schoolrooms, which you see in the community. They have contracts that have to be met. Quite often the industry staff will be directed onto overtime in order to meet contracts. That overtime bill is then lumped in not only with industries but also into the running of the jail. It is not just a feature of custodial care and lockdowns and that type of thing, which Mr Bindley referred to. It may also be the fact that they had to meet a contract to build some classrooms by a specific time. I suppose that would happen in the private sector as well.

CHAIR: You mentioned earlier some prison officers are happy to work a lot of overtime because they might be saving for something and others, because of family and sporting commitments, are not keen on doing overtime. Does the PSA, and the prison officers vocational branch in particular, have a policy on what is reasonable overtime? Even if somebody wants to save up for something, is there not a point where their health and welfare dictate they should not be doing that number of hours?

Mr BINDLEY: It is ironic you should raise that because in the last few disputes we have had with the department we have actually engaged in overtime bans. Subsequently the department has taken us to the Industrial Relations Commission and we have been directed to do overtime. The fundamental question we have had throughout all this is what is deemed to be a reasonable amount of overtime. We cannot come up with a definitive figure in relation to overtime because what suits one person's lifestyle and their capabilities may not necessarily suit another person.

Mr LITTLE: The great irony in this is that we have done that. Members are just fed up with being directed to work reasonable overtime. Often the industrial instrument will refer to "reasonable". That can become a question of what is reasonable and what is not. That is right: our members have been directed by the department to work overtime, and been taken to court and directed to work overtime.

The Hon. TREVOR KHAN: Working overtime is part of your agreement. An overtime ban is contrary to your agreement in awards.

CHAIR: You do not have a particular figure so that you can say you do not want your members to work more than a certain numbers of hours a week?

Mr TURNER: In answer to your specific question, the PSA does not like workers working too long and too many hours, but there is a huge academic debate about what is too long and how many hours are too many. We fought for 10 years to get 12-hour shifts in the power industry. Some people argue that 12-hour shifts are absolutely horrible for your life, your sanity and your health. Others argue that eight-hour rotating shifts of three shifts a day, seven days a week are even worse because one day you are on morning shift, the next day you are on afternoon shift and the following day you are on night shift. The PSA is committed to ensuring occupational health and safety in the workplace and working with management and workers to ensure that everyone works safely.

The Hon. GREG DONNELLY: In relation to locking down, which you referred to in answer to my earlier questions, is the decision to lock down a part of a jail decided at a local level to deal with a particular manning issue for the prisoner population?

Mr BINDLEY: You are 100 per cent correct. Generally there is some type of agreement between management and the members in each jail that will determine a safe level of work for not only the staff but also the inmates and other people who are in the jail on any given day. The staff numbers will reflect the number of inmates actually out of cells.

The Hon. GREG DONNELLY: I presume there is a situation where, if there are not enough prison officers in a jail because, for example, not enough people are available to do overtime that might be offered, a greater locking down of prisoners then takes place as a result of that? Is that how it works?

Mr BINDLEY: That is how it is done. It used to be through operational agreements. A set number of staff would be required to open any facility on a given day, and as the staff numbers were depleted on any given day, structures would be in place as to how that jail would run. It would vary from institution to institution. There could be a group of inmates that are left locked in their cells of a morning. After all their needs were catered to—they would be fed, it would be made sure that they were alive and everything was okay—they would be secured in their cell of a morning. Then of an afternoon, the same thing would happen to a different

group of inmates, but the group of inmates that were left in in the morning would then be let out, so that at least they did get out of their cells at some time throughout the day.

The Hon. GREG DONNELLY: On the question of the island agreements that were referred to by the commissioner, we have not seen them and we do not know what is in them so we cannot compare them with the existing industrial instruments. Do the island agreements, in part at least, manage the issue of overtime and sick leave in a different way to the existing instruments? If the answer is yes, can you explain what those differences are, at least in broad terms?

Mr BINDLEY: The answer is yes. The payment of overtime is different from what the normal system is. They have a flat rate of overtime; that is in their award. How they deal with sick leave is the same as how everybody else deals with sick leave throughout the department. The big thing with the jails is that it is not the award that dictates how the work is done; it is the agreement reached between the parties and the physical layout of the institution that enables more to be done with fewer people.

The Hon. GREG DONNELLY: With respect to that flat overtime rate, was the hourly rate bulked up to reflect some regular overtime compensation?

Mr LITTLE: From memory, it is pegged at one of the entry-level rates. In other words, if you are a senior you do not get time and a half based on the seniors rate; you might get time and a half based on a lower level. It is capped, and then everyone works under that.

Mr TURNER: If it assists the inquiry, we can take that on notice and give a brief description of what we see as the main points of the island agreements, as Mr Woodham called them, and compare that to the primary award in the jails.

Ms SYLVIA HALE: Could you also explain the basis of the 209 days, as opposed to 191 days, as the roster basis?

The Hon. HELEN WESTWOOD: I refer to the evidence that Commissioner Woodham gave us this morning. Mr Little and Mr Bindley were not here, so I will be blunt with analysing the picture he painted to us this morning. The commissioner said that some officers at Parklea and Cessnock are abusing sick leave so that they can work overtime shifts, that there is also some favouritism in terms of rosters for those who are part of the in-group and that there are others who miss out, and that there were some incidents in which people were watching cricket instead of the closed circuit television for surveillance and some people escaped. This was the picture he painted. In your evidence to us this morning you suggested that you reject that. I would like to know why you reject that picture that was painted of the workforce at both of those facilities and why you think, if it is not for those reasons, that those two facilities, Cessnock and Parklea, had been identified for privatisation.

Mr LITTLE: I totally reject that. If that were a problem, it astounds me that that was not addressed prior to 18 August when we suddenly had this big announcement that these jails were going to be market tested for privatisation. If there are problems with sick leave, or anything else like that, you would expect that the managers and head office would address them in a methodical way, consistent with what happens everywhere in the public sector. I just do not understand why they would come out with this, other than what was in the media on that weekend. It just seems like it was part of a strategy to portray members in a bad light because a decision appeared to have already been made in respect of privatisation. That is what it seems to us.

In terms of the locations, when we attended an information session at, I think it was, Cessnock—there are information sessions soon after which we ask management to do—we were told that they were picked out because the private operators liked the geography of them. That is what was put to us. It certainly was not put to our members at either location that it was due to sick leave and overtime, or anything like that. It was told to the staff there that the private operators liked the geography.

The Hon. HELEN WESTWOOD: Who was it put by?

Mr LITTLE: It was put by, I think it was, Deputy Commissioner McLean.

Mr TURNER: With all those issues going on, I am not sure why Mr Woodham has not had us down in the Industrial Relations Commission to resolve all those issues and take them forward. In relation to Cessnock, I was informed on the weekend—and again I can compare it and send the figures in—that the average sick leave

at Cessnock is only 6 days, compared with 13 at Long Bay. And Cessnock has hardly had any industrial action in the last 10 years, so for him to say it was the worst jail for industrial action I think is just wrong.

Mr BINDLEY: Can I briefly answer the three questions that were asked. The accusation that somebody was watching cricket in the monitor room when somebody escaped is ludicrous. That room is a monitor room; it only holds closed-circuit TV monitors which are reflective of what is happening in the jail. There is no way that you could get outside reception to Channel 9, for argument's sake, to watch the cricket. So I do not know why that statement was made.

The Hon. JOHN AJAKA: It is just wrong?

Mr BINDLEY: It is wrong. As for the sick leave policy, and people going seek so that they can improve their opportunity to get overtime, the sick leave policy we had in place at that stage, which expired on 31 December last year, excludes people with high sick leave records. There are components in there that once you get to a certain stage of sick leave you either make a second option overtime or if it continues you are excluded from the pool altogether. So I do not agree with that statement either.

As for the manipulation and looking after the people within the in-crowds and calling people for overtime, we use a system of overtime equalisation and a computer generates a list of who is next to be called for overtime. It is gauged on the last time you did overtime or you rejected overtime as to where you are on the list. The person who rightfully should be called next for overtime is on top of the list. As for putting people in preferred locations on overtime, I know that at Parklea if you are called in for overtime you fill the vacancy on the roster. It is as simple as that. Unless, of course, it is a specialised area where people with specialised skills need to work; that is about the only way the roster will be juggled, to cater for those needs.

CHAIR: That concludes our time for questioning in this session. I would like to respond to a couple of issues that Mr Turner raised in his opening statement. Firstly, he said he thought it was unusual that we started hearings before submissions closed. Our reason for that is that we simply wanted to get background information from some of the key players, that is, the department, the unions, some academics appearing this afternoon, and a lobby group for prisoners, so that when we went through the submissions we could call in the witnesses who we thought would best elaborate on some of the issues that were raised here today.

Secondly, Mr Turner mentioned being recalled. The Committee has the capacity to recall witnesses towards the end of the inquiry if members have specific questions they would like to ask them, or to get their views on other evidence that is given. If the Committee is of the view that there would be value for the inquiry in calling back any of the witnesses who have come along today, we will consider that, and you may hear from us again.

(The witnesses withdrew)

(Luncheon adjournment)

CHAIR: I declare this part of the hearing open. I will not repeat the full information about broadcasting guidelines. If there are any members of the media present, they should speak to the secretariat staff, who will give them the full details.

BRETT ANTHONY COLLINS, Coordinator, Justice Action, PO Box 386, Broadway, and

MICHAEL JOHN POYNDR, Coordinator, Justice Action, PO Box 386, Broadway, affirmed and examined:

CHAIR: Would either of you like to make an opening statement?

Mr COLLINS: Yes, first of all, we would to acknowledge the Committee for giving prisoners the chance to actually present their own material. We think it is very significant that prisoners are not seen as being just merely people inside the cells; that they have voices, they are human beings, needing to be involved in decisions that affect their lives. We acknowledge the Committee's opportunity that has given that to us. We think it is also really important to further that, to ensure that the value of our contribution is not just our own personal one—we are both ex-prisoners and we are obviously in contact all the time with prisoners and their families but it is also very important to make the value of our contribution even greater to make sure that we do get access and to consult with the prisoners themselves.

We make that point because obviously the issues before the Committee are fundamental and significant. The prisoners will be there regardless. The prison officers may not be there as a result of this; the department will obviously be there and the prisoners will be there and they are central to the whole interests of corrective services institutions, and to not have a proper consultation happening through trusted people in the community who can properly channel their concerns to the Parliament would be wrong. There have been a couple of instances where that has not occurred; for example, when there was the opportunity to inspect the mental hospitals towards the end of last year. Justice Action and the Nurses Association were available and we were not able to go in there with the Committee. We ask that next time that actually occur.

I would like to make a few general points before we advance on the actual terms of reference. Michael Poynder will talk about the terms of reference and lead through each one of the answers, but we would like to make a couple of points first of all. One is that whenever there is a roster problem or a problem with the budget, we inevitably are affected. Our members are locked into the cells. It is very easy to say, "Well, that doesn't matter because people will be locked in their cells anyway", but it does have an impact on the mental wellbeing of prisoners, and when they are released it means that they are less able to fit into the community.

Also, what happens on the ground is that when they are locked in, it means that prisoners no longer have access to education courses and the first thing that stops is that there are no visits any more. We are not talking about the benefits of prisoners to have contact with their families; we are talking about family members, and most times it is women, mothers, wives and children, who can no longer go and see their family members. We are not talking about the crim, who does not deserve anything; we are talking about people who are the salt of the earth, who are members of the community, who are crying no doubt to members of Parliament, saying, "Can we have a hand to make it better for us personally", and also make it better so that when prisoners come out they have someone to go to who still loves them, who can present that continuing love and continuing access.

Visits are essential and, of course, another area is legal visits, which are always disrupted when there are lock-ins. We have heard that lock-ins are triggered by an insufficient number of staff on the ground. We agree with the prison officers. It is essential that the rosters be maintained, it is essential that they be done efficiently, and there are several other things that we will talk about too that impact on the lives of the prisoners themselves, but lock-ins are definitely a bad thing.

The choices that are given here now; it is a bit of a watershed in some ways. The question is whether it is the corporate model that is going to be presented as a benchmark or presented as an acceptable way of dealing with prisons and prisoners. We have heard already that women prisoners are not going to be considered. One would have to ask why? Likewise they are human beings too. If there is enough concern for women, what is wrong with the men? It is interesting that they would see at least women should not be part of that deal. We think that men are also very significant too.

The question is whether the corporate model is superior to the publicly run model and we would say publicly run community model because after all it is part of the community and the corporate model is different entirely; it is there for a profit whereas the public model is one where the community pays for and expects proper accountability for its money and also it expects a link with the community itself, not just the community outside—we are talking about the family, who are responsive through you members of Parliament but also the prisoner community inside, who have members of Parliament to talk to and other people outside to talk to, so potentially we have then a publicly run community model as opposed to a corporate model. We would say that is absolutely essential. That is the social compact and to breach that is really fundamental and there would have to be a really good reason for doing that.

We have seen very clearly after the experience overseas, and we have talked to a number of people such as Jane Andrew, who will give you information about the Value the Money Report, who all say that the corporate model does not do better. In the United Kingdom we have a clear report by the independent monitor presented by a man called Stephen Nathan, who said that 10 out of the 11 private prisons in the United Kingdom were in the bottom quarter of the performance register of all United Kingdom prisons and showed that they were consistently worse than their publicly run equivalents.

We heard that right throughout the whole system; we have done international references and in talking to our own friends and prisoners inside the jails. They said when they went to Borallon, for example, the first privately run jail in Australia, they said that initially it was great but then within a short time the conditions were eroded and suddenly prisoners could no longer get clothes and a whole range of things had deteriorated. One more thing before I talk specifically about the terms of reference and that is we actually feel that the Government itself has let us down very badly. We say that really clearly.

What we had happen before was we had a situation with the mental health hospital where once again an amount of money was to be saved at the prison hospital. On 2 April last year the number of prison officers were reduced to save money. Instantly these really sick forensic patients were locked in for 18 hours a day. We had the major inquiry, as we all know, in the upper House where Minister Hatzistergos promised to Parliament that by 26 November there would be no forensic patients inside the hospital. What has happened is that all the forensic patients are still in the hospital; they have not been transferred from the prison hospital across to the forensic hospital as he had undertaken to do. We feel as though we have been misled and we feel we have been not taken seriously. We also feel that Parliament itself has not been taken seriously.

Mr POYNDER: Thanks, Brett. I will be brief so you can ask your questions. I think it is worth recording that perhaps for the first time in the history of New South Wales prison officers and prisoners actually agree about one thing. We agree fundamentally that there should be no privatisation of prisons. We stand very firmly behind prison officers in that argument. There are four major issues that we confront. The first is that there is the moral issue, that is, there is an inherent obscenity about corporations making profits out of the misery of others. Prisoners are unhappy people. It is probably the worst place in our society that someone could be put and to make money out of it, we think, is something that is morally obscene.

Secondly, we say the corporate model is not appropriate for prisons. The corporate model requires a maximising of profits for its shareholders, which mitigates against discretionary spending. It involves more people being locked up for longer periods of time. We do not think that is in society's interests or in the interests of the individual prisoners themselves. Also there are low standards of care. The profit motive is being placed before moral considerations of human dignity and welfare. Citizens are being incarcerated in greater numbers and for longer periods to satisfy the demand for growth that all corporations must have to survive. As Brett mentioned, the third issue is financial benefit. The reports we have seen show that the privatisation model is simply not a better model than is the public model. Evidence will be given to this inquiry by Jane Andrew, who is a leading economist from the University of Wollongong, to support that argument.

Finally, and most importantly in our view, I would like to point out the shocking statistic that exists presently in New South Wales, which is that 43.7 per cent of all prisoners, when released, commit crimes again within two years. It is a 43.7 per cent rate of recidivism. If there are any public safety issues that will come out of this inquiry, we would say it will not have to do with escapes. It will have to do with the fact that 43.7 per cent of prisoners actually impact upon the community within two years of being released and commit crimes that again result in their being sent back to jail.

I have not heard one single argument that makes any particular sense about privatising prisons leading to a reduction in that shocking rate. To give you an idea of how bad it is, it is 10 per cent higher than is

Victoria's. That means that it is 10 per cent higher here than is the rate in a comparable state such as Victoria. That is the issue that we think should be confronted. By privatising two of our major prisons, the Government will lose control of the recidivism target that it will aim for. The Government has said it will get the recidivism rate down by 10 per cent over the next two or three years, but I do not know how it will achieve that without having control of its prisons. Against the background of those four elements, the terms of reference fall into place. Unless you want me to go through each particular term of reference, I do not intend to deal with them in detail. It is entirely up to you. I am in your hands, Madam Chair.

CHAIR: Perhaps we will take questions now. If at the end you feel that you have not covered everything in your prepared notes, you can either incorporate them as a submission or make submissions towards the end of your allotted time. Is that satisfactory?

Mr COLLINS: That is fine, thanks.

The Hon. TREVOR KHAN: I do not direct this to either of you in particular: It is a matter for you both. We will start with the recidivism rate. This morning I was reading an article by Judge John Kane, who is an American judge. He referred to the fact that in the United States, the recidivism rate he was quoting is 85 per cent within two years, so 43 per cent by comparison is not too bad. If we look at the 43.7 per cent, you were both here this morning, were you not? You would have heard that there are varying percentages of prisoners in custody in private institutions in various states. For instance, in New South Wales the figure is 8 per cent; in Queensland it is 23 per cent; in Western Australia it is 2 per cent; in South Australia it is 7 per cent; and the figure I am getting to is Victoria. In Victoria, the percentage of prisoners who are in the custody of private institutions is 36. In Victoria, it is the highest level of custody by private institutions, yet you are telling me the recidivism rate in Victoria is 10 per cent less than it is in New South Wales.

Mr COLLINS: It is not even a good comparison.

The Hon. TREVOR KHAN: That it is your comparison.

Mr COLLINS: That is good. We were concerned also because the terms of reference at no stage talk about recidivism. They talk about money. We also have been looking at the history of this. Nearly 15 years ago we went through the State budget for Corrective Services and discovered they did not even have in the budget a reference to the recidivism level at all. We used to be part of the Council of Social Service of New South Wales [NCOSS] examination of the budget. We were shocked, to be honest. We thought it must be a mistake, but there was no report at all.

We then poked it in the face of Corrective Services and said that, "This organisation is supposed to be correcting people but does not even count the figures." They went, "Oh, okay", and decided that they would then actually include recidivism. It is all well documented, I can assure you. They have only just come to realise that it is part of their job to ensure that people can go out into the community and actually do it better. You can guarantee their corporations are not going to do that better. No, in fact they want to grow their business. Any suggestion that a private company will reduce the amount of work they have and therefore reduce their profits is not going to happen. Remember that there is no benchmark in recidivism. Corrective Services has not had any interest in that area for a long while.

The Hon. TREVOR KHAN: Let me look at another benchmark we can look at that we would expect, in a public institution, we are doing something about, and that is the level of members of the Aboriginal community who are in custody under publicly run institutions, which generally is the case in New South Wales. The level of members of the Aboriginal community who are in custody is at a rate some 14 times higher than it is for the balance of the population. What has the public system done so effectively that prevents such a fundamentally bad outcome being achieved? What benchmarks are there in the public system that are achieving outcomes?

Mr COLLINS: We agree entirely with you. There is no doubt about that at all. In fact, the way we were going to begin was by saying that we are very unhappy with the system as it is. Let us remove any doubt about it: we are not saying that the system is great and we should run with it as it stands. We are having discussions now with the Prison Officers Association to improve what is occurring in a way that we believe we could not achieve with corporations. We believe we can work with the union to achieve occupational health and safety possibilities that are not achievable through corporations.

We think the same thing can also apply to the community as well. For example, just in the last few weeks, a very significant organisation known as the Community Justice Coalition, formed by some of the most significant social figures in Australia, expressed concern about a number of issues, but most importantly about privatisation. That shows that there is community concern about these issues and a preparedness to deal with them—for example, Aboriginal issues. That is not going to come from corporations. It can only come from the community, but with a fresh look at it. That is what we would say.

We think it is very fresh that you give access to prisoner representatives here. We say, "Deal us in. We have an interest in ensuring that our people do not go back to jail. We want to have access to jails." We are banned from jails. We cannot even go in and see our own community. We have a lovely 18-year-old Aboriginal boy who is crying out for us to go in and see him, but we cannot see him and we can give him support. There is no excuse for that occurring. That is the sort of thing we should be confronting. We ask this Committee to make that sort of recommendation to the Government to ensure that we can confront Aboriginal imprisonment as a starter.

The Hon. TREVOR KHAN: I put that to you in the same way, in a sense: What supportable and verifiable benchmarks exist in the public system that ensure we achieve outcomes? What I am suggesting to you is that really there have been none.

Mr POYNDER: Well, that is correct. At the moment, New South Wales is very bereft. We have been talking about recidivism, and that was your principal point. For a long time the Victorian Government and the Victorian prison model have recognised the need to reduce recidivism. You will find that that is part of their practice incorporated into contracts that they let out to private corporations.

The Hon. TREVOR KHAN: That is precisely the point, is it not? You can incorporate them in a legally enforceable way into a contract whereas you cannot do it, and you do not do it, in the public system.

Mr POYNDER: One of the problems in Victoria is that it has not particularly worked down there, but not necessarily because of recidivism. The financial model itself does not work particularly well, and that has generally been the feeling of overseas jurisdictions as well. What I am saying is that in New South Wales the contract that will be put out to tender will reflect the New South Wales current prison practice, which has no reference at all to recidivism. We have a rate of 44 per cent whereas in Victoria, they have at least incorporated those types of issues, as I understand it, into their contracts.

The reason that the corporate model is failing in Victoria is not necessarily to do with recidivism: It has more to do with dollars and cents, as I understand it. It is just not working properly. But as far as recidivism is concerned, it is what you contract for. The bottom line of this I suppose is that where a corporation can save money, it will save money. That is its duty. Its responsibility is to its shareholders. It is not to the prisoners it treats. If they can cut corners, with all due respect, they will. I do not think that any contract they can put together is going to be so tight that they will not be able to do that. It is almost impossible.

Mr COLLINS: Can I just add that there are two distinctions in practice with Victoria. One is that there is only half the rate of imprisonment as exists in New South Wales, and that is very significant. We are not really comparing apples with apples. The other thing about recidivism is that recidivism relies not upon something that either a corporation or a government department can actually enforce; what it requires is an involvement by prisoners themselves. You will not change behaviour at all unless you involve the prisoners, and no prison system is doing it properly. They find it much easier to manage by telling people what to do and by locking them in their cells.

For example, earlier we heard from the prison officers who were saying that they would much rather have new jails instead of old jails. We do not feel quite as sympathetic or as clear about that at all. In fact, it might seem to be more efficient to have fewer prison officers on the ground, but we are more concerned about the social arrangement between prisoners and prison officers. We have found in the past that having more people together and being able to not be segmented and separated from one another is better socially, as long as the jail is being run properly. It does not come down to architecture.

The Hon. JOHN AJAKA: Can I look at it a little bit differently in this respect: If you accept that today we currently have a system that is not working, and if you accept that today we currently have a system whereby reoffending is at 43.7 per cent, which I think is an extraordinarily high number, we have a system today, if we listen to the commissioner, in which he blames the unions and their members, and we have a system

today, if you listen to the union and their members, in which they blame the commissioner and the Government. Everybody is blaming everybody else. That cannot be good for prisoners.

When you say that by going with privatisation, all the interest is in just growing your business, where I have difficulty with that statement is this: From a business model perspective, it would be good business for private institutions to be able to prove to the Government that fewer repeat offenders results in fewer complaints and fewer problems occurring. In fact, prisoners seem to be happier in private institutions. I have not seen any evidence anywhere to be able to show me conclusively some backup for your statement that all they are going to want to do is grow their business, full stop, and it will be bad for the prisoners. To put it simply, I am not convinced by your argument at all that a private prison will do is grow its business to the detriment of prisoners and therefore that will result in poorer service delivery for the prisoners. In fact, if they have a reputation of providing proper education and providing proper facilities, with fewer reoffenders coming out of their institution, that is actually good business practice.

Mr COLLINS: Our response to that is to look at the example of the experience internationally and nationally. The reality of it is that that is not shown on the ground. We in fact see cost cutting in private prisons throughout Australia and we have a UK report in which that is very clear as well. The other thing is, in order to be quite clear that growing their business is really what it is about and to increase the bottom line, there is the case that came out just eight days ago where a private institution for children paid to two judges almost \$4 million over a period of years so that those judges would put people inside their juvenile institutions so that they would receive more payment from the government. That shows you where the interests of the private prisons run. They run in making money, no matter what, and we would expect that not to come from a public institution.

Mr POYNDER: Could add just a little bit to that. I think you are quite right in the theoretical sense in what you say. That is the benchmark for remuneration, but the benchmark for remuneration of these prison corporations is more often the number of prisoners that they have under their care, and the dollar per prisoner that they have in there for a certain period of time. If they benchmarked it to say that if you cleared out the prisons, then you get paid a lot more money or you get preference in other things, perhaps there might be a different argument. But I am not aware of any circumstantial where that has arisen. That has led to the type of behaviour that Brett has just mentioned. It is all a matter of how the contract is worded. I would have thought it would be a very unique contract indeed that would remunerate a prison corporation when in fact it had not prisoners in there.

The Hon. JOHN AJAKA: You made two earlier statements, and I will take the second one that I thought was a very strong statement. You said that the number of prison officers had reduced. However, when we listened to the commission's evidence, he is maintaining that there has been a proper increase in the number of officers in proportion to the number of prisoners. Can you explain to me why you say the number of prison officers has reduced?

Mr POYNDER: I am sorry; I do not think I said that.

The Hon. JOHN AJAKA: One of you made that statement.

Mr COLLINS: No, I think the proportion has reduced and the impact of that has been a reduction in visits and facilities for prisoners. But I do not think we have actually said that there are less prison officers now than there used to be.

The Hon. JOHN AJAKA: From a proportion point of view you believe that there has been a reduction in the number of prisoner officers?

Mr COLLINS: No, I am sorry, are you referring now to the 28 prisoner officers who were taken away from the Long Bay prison hospital which resulted in the mental patients being locked down for 18 hours a day.

The Hon. JOHN AJAKA: Then you made the comment "the Government has let us down" and you started to mention a few things but you deviated. Specifically why has the Government let you down?

Mr COLLINS: We feel massively let down by the Government. First of all to spend so much money on our people, to pay in an adult institution \$73,000 a year, and for those prisoners to be locked in their cells for 18 hours a day, is just so bad. We would expect at the very least that the money would be allocated for their correction and they should get some benefit from it. About 10 years ago we distributed to prisons in New South

Wales 100 computers, which had been donated by a charity of which a patron is the Governor of New South Wales. We were told we could have unlimited computers to distribute inside New South Wales jails. Initially we put in 100 and then we said to Junee would it like some computers. They said "Great, yes, please". We were on our way to send those computers down to Junee and then they said "No, sorry. We have just been told by Corrective Services they cannot receive the computers because they are coming through from Justice Action". Later we were told—we had all the computers returned to us in a truck out the front with a couple of prisoners conveying the computers. We feel massively let down by government when it prevents our people using the time in their cells with free computers not able to use the time to gain the skills to which they should have access. It is so bad it is almost as they themselves are also trying to create crime and raise the recidivism level.

Mr POYNDER: From my point of view the real concern about the trend with government at the moment is the trend towards warehousing prisoners. You stick them away and you forget about them and then you let them out again at the end of the sentence. That to me is one of the major problems with recidivism because they are not treating the root cause of the problem when they could and that is where the money needs to be spent, and computers are a good example.

Mr COLLINS: We want the ongoing consultation. We show goodwill to our community. Why would we not? They are our people in there. Our family is in there so we want to help the Aboriginal boy who is sitting there waiting to be seen. We have got some people who are disabled who have come out and spent time with us, been mentored with us and when they go into the jails we cannot have access to them any more. How bad is that? We have had immense success offering mentoring to people when they come out from jail. In 1984 I ran a halfway house, I was a coordinator, with 20 people living in there, funded by both State and Federal governments. We ran it immensely successfully. They took away our money because we made criticisms of government back in 1984. Only more recently they no longer permit us to continue community service orders. For 24 years I was the supervisor. I have been supervising hundreds of people on community service orders. They have now stopped that from occurring because they want to reassess the program. They now have all these spurious reasons to not continue. So any suggestion that the corporate model can do better is ridiculous. The Government public model has got to improve its game, and it has let us down very badly.

The Hon. ROY SMITH: We do not have a lot of data. Are you aware of any data that compares the lock down times of private prisons to government-operated prisons?

Mr COLLINS: One has to ask why is it not there? Why are we paying \$1 billion a year if the figures are not there? We are aware the lock-down periods are held. In fact, it is part of the Australian Productivity Commission documents. Every year they turn them out and they are available in all States and they give you time out of cells. But whether they are actually accurate is another question because a lot of our people, for example, in Long Bay they are locked in on Friday morning every week because there is a union meeting or something like that and that affects our ability to be out of our cells during the morning.

The Hon. ROY SMITH: Have you been able to compare that sort of date between government-operated prisons and commercially operated ones?

Mr COLLINS: It is certainly there. As I say the Australian Productivity Commission has got those figures, which I have seen.

The Hon. ROY SMITH: We are talking about government versus commercially operated ones. Are you aware of any not-for-profit organisations that might have similar concerns as your own organisation operating prisons anywhere else?

Mr COLLINS: It did occur. There was a proposition in the United Kingdom, I think it was Nacro that was offered to run some section of the prison system and it was howled down by the rest of the community for offering for it to happen. It is not popular but from our point of view we have said if we were given the opportunity to be involved in the management of a jail we would say "yes".

Ms SYLVIA HALE: I know the Public Accounts Committee considered that it was important to retain one private prison, at least, in the State as a benchmark against which to measure the performance of every other institution. Is that a reasonable argument? What comment do you have?

Mr COLLINS: Junee has been there for a while. We have a whole range of criticism of Junee. A whole range of people have been saying to us for a number of years that they have not been getting the correct

food, they have not had access to welfare officers. A whole range of complaints have come out of Junee and Junee in some ways is also a bit of an unusual jail in so much that the people who are there are quite vulnerable because they have been separated from the rest of the prison population to a large extent. They are people who are protected prisoners to a large extent. So it is an unusual jail. To say it should be kept as a benchmark, if it is, I would have thought it fails pretty miserably because it is not a happy jail and I have not yet seen figures that suggest it is better than the public ones.

Mr POYNDER: The feedback we have from inmates on the Junee jail—bear in mind that inmates talk all the time about what are the best jails because they try to get to the best jails. It is the hot topic of conversation in the yard because you want to get classified to a decent jail, so fingers are on the pulse—Junee is seen as having wide fluctuations and very inconsistent. It tends to depend, I suppose looking at it from the outside, on what money is available at the time. Some prisoners say it is wonderful, it is a really good place to go and then the next bunch of prisoners will say it is shocking, it is terrible, the service is bad. It tends to be those that go there for a short period of time who might have got there at the time when there is plenty of money floating around in the system actually are generally satisfied. Those that tend to be there for a longer period of time talk about peaks and troughs and inconsistencies.

One of the things that prisoners really do need is a consistency of treatment. It is such an important part of their lives because once you have a routine as a prisoner then time goes very quickly. It is that breaking of that routine that can be very, very damaging for prisoners. It makes the days go longer. It gives new challenges every time. So that breaking of the routine is relevant to what the prison officers were saying about the appointment of casuals because we are very much against the appointment of casuals. As a prisoner you get to know your prison officers, and whether they are good or bad—I am criticising prison officers—but they are the devil you know. You have an expectation. You have a consistency of treatment. If you have got a prison officer you do not like then you stay clear of him. Prisoners do not want to cause problems in their own jail. They steer clear of all of that. If they get used to the prison officer then they will know whether he is someone they can get along with. At least they can deal with him. It is the devil they know.

Ms SYLVIA HALE: You said that prisoners like to go to a good jail. In your view what makes for a good jail? Why would prisoners consider one jail preferable to another?

Mr POYNDER: Generally I suppose empathy of a sympathetic treatment program. As I said, prisoners do not want prison officers in their face all the time. For instance, Cooma is regarded as the best jail at the moment to go to and that is generally because there is a good feeling amongst the staff, the prison officers and the prisoners themselves. There is a good rapport there from the prisoner's perspective and that is what prisoners look for. They look for consistency of treatment. They look for predictability. They look at getting in their routines and once they get into their routines and the routines are not too harsh really they can survive long periods of incarceration.

Mr COLLINS: It includes things like safety. You are entitled to expect that you can walk out in the yard and not be stabbed and be with somebody in your cell who you trust and ideally if you a really distressed that you have somebody around you or some people around you with whom you have good interaction. And then also learning things so you can use the time to do something positive instead of just wasting time and being totally hopeless. That is what really disturbs us is that we talked earlier about new and old jails and the whole idea and what makes a good jail? What makes a good jail is the fact that there is social interaction and having an opportunity to use your time properly. That is why the issue, for example, of the loss of remission for prisoners was just so devastating because it meant then there was not the incentive or the opportunity to actually achieve some benefit for yourself and work towards a release. It was immensely important. It has meant that the morale of prisoners has actually dropped enormously because they cannot achieve their own release through their effort.

I do not know whether people are aware of this but there used to be a mark system which was run in McConachie's day on Norfolk Island. People could actually earn their own release by earning marks. They did some very nice statistics on this and in McCoachie's days they had a recidivism level of 2 per cent within two years. It is fascinating to see what happened back in 1832, I think it was, 2 per cent recidivism level and it was very carefully documented as opposed to 43 per cent now. They put it down to the marks system, the need for incentives so people could use their time positively and gain some benefit in the process, and that works for everyone. That is what we want back again.

Ms SYLVIA HALE: You said that what is important is, you started off with safety, social interaction and then the opportunity to learn and interact with people. From that perspective is the prisoner officer ratio to prisoner a critical one in terms of officers on the ground?

Mr COLLINS: Yes, it is an important one. It means that both the prison officers and the prisoners feel safe if there is an agreement on where the posts are and the way people are to treat one another and people are relaxed. Also when you do not have casuals in you do not have all this tension as well. At the moment the Gates House at Long Bay is staffed by a private company and inside are the other prison officers and there is an immense tension between the prison officers inside and the private guards outside. You can hear that expressed all the time. When the visitors go through we have constant complaints about the way they talk to each other and the way they actually stop things from occurring. Every time that occurs it is our visitors or it is our families inside the jails who are affected by it.

Ms SYLVIA HALE: What is the cause for concern there in that interaction between the officers and the privately employed staff?

Mr COLLINS: The concern is that people are not communicating with one another and are actually antagonistic to each other, so that antagonism expresses itself in normally people not turning up for shifts or problems between the prison officers. It is always the prisoner who is the one who is affected by that or the prisoner's family who are affected by it.

Mr POYNDER: The prisoner becomes the meat in the sandwich, that is the problem, the bit in the middle, and we do not really have any effective remedy if things start going wrong because often these disputes between the privatised prison officers and the government prison officers are manufactured and we are caught in the middle. The point you are making really hits the nail on the head in the sense that "What makes a good prison?" That is a reasonable relationship between prison officers and the prisoners themselves. You can only have that if there are enough prison officers so that they feel comfortable so that the prisoners feel comfortable. We see prison officers as part of the solution, not part of the problem. They are very much part of the solution, not the problem. If they are properly staff and there are enough of them around then we believe that the prisons can be run properly. There is no way known that prisoners and prison officers are ever going to get on terribly well, there is always going to be that tension, but if there is enough of them they can exist comfortably but you are not going to have close relationships.

Ms SYLVIA HALE: The Committee has heard evidence of long periods of overtime being worked and the prison officers suggest that is because there are not sufficient full-time staff. The commissioner, on the other hand, suggested that it is because the prison officers are manipulating the system.

The Hon. TREVOR KHAN: I do not think that is entirely what he said.

Ms SYLVIA HALE: He said, "I am not using the word 'rort', I have never used the word 'rort'", but he did say that it was being manipulated.

The Hon. TREVOR KHAN: His evidence was far more—

Ms SYLVIA HALE: Whatever! What do you think is the impact on prisons of prison officers working extended overtime?

Mr COLLINS: If it comes down to management, quite honestly I would have thought that it is a management issue. It is important that you do not have other-five prison officers, because we would end up with aggression and that would be played out on the lives of us inside. We much prefer that they were arrested and comfortable in their jobs. If it means that we actually do not have the posts that are necessary to staff the jail, we are against that. Obviously it is a management issue and should be decided by the Corrective Services.

Mr POYNDER: Unhappy and tired prison officers who are overworked are not happy with their lot, and we believe that is more often than not the case. We see the problem as a top-down issue; it is not just from the bottom up, prison officers; we think it is from the top down. It can only cause problems for prisoners. It leads to tension. Once there is that tension, particularly in a volatile group such as prisons, then you are asking for trouble. With tired and unhappy officers often it is a morale issue from their perspective, and it flows through into prisoners. If the prison officers are not happy, the prisoners will not be happy. All of a sudden you have a jail where there is tension.

Ms SYLVIA HALE: You said that lock downs and other unscheduled events have a big impact on families, not only on prisoners who cannot get visits but also on the families who want to visit inmates. What is the visiting regime at Junee? How does it compare with the regime in other prisons? Have you heard any complaints about it or any evidence that it is better?

Mr COLLINS: There is no suggestion that there is any change, that it is any different from other visits. I have not had specifically complaints about visits as being different from any other jail. But there is a wash of things that people are complaining about. For example, food and clothing are issues that come across as well as health issues. Those issues come specifically from Junee.

Ms SYLVIA HALE: What about welfare officers?

Mr COLLINS: Yes. Absolutely.

Ms SYLVIA HALE: Earlier I asked the commissioner to whether Junee had any welfare officers and the response was there were not welfare officers as such but there were people who were in different categories. It seems one of the problems is in trying to compare the public and the private, the different categorisation. Put that to one side; what is your experience at Junee?

Mr COLLINS: There has been a big issue for a while about the delivery of welfare services. There used to be welfare officers significantly distributed throughout prisons. More recently there was a move to have case management come in and take over some of those welfare officer possessions. That does not work for prisoners. That does not work for prisoners because prisoners previously who had access directed to welfare officers whom they could trust, although they were controlled by Corrective Services, but they could talk to them in a different role than the coercive role of a prison officer.

So they lost a number of welfare officer positions because they became part of case management, which was examined by the ICAC only about 10 or 12 years ago and is seen as being quite illusory. Case management never worked. The effect was that we lost our welfare officers across the system, many of them. So far as Junee is concerned, that is certainly no exception. The welfare officers at Junee are not delivering services that they should be delivering.

CHAIR: Government members may now ask questions.

The Hon. HELEN WESTWOOD: I will continue on that same theme about welfare officers. Are you saying that there are no specific welfare officers in any—

Mr COLLINS: Oh, no. But there are less than there used to be. In Silverwater there may well be only three or four, I am not sure of the exact number. But when we ring in, it is impossible to get a welfare officer. When we talk to families who ring up when they are concerned about their son who is inside, we always say, "Welfare officers are the starting point, but you are unlikely to get through". That is a fact.

The Hon. HELEN WESTWOOD: In the evidence that Commissioner Woodham gave this morning, referring to the question asked by Ms Sylvia Hale, he said that prison officers or correctional officers at Junee provide services normally provided by welfare officers including drug and alcohol counselling. Are you aware of that? Do prison officers provide drug and alcohol and other counselling?

Mr COLLINS: I would not have thought so.

The Hon. HELEN WESTWOOD: You talked about your discussions with prison officers to address social issues of prisoners and their families. How are those discussions carried out? Is it through the union or through individual officers at facilities? Do you have the same opportunity to have discussions with prison officers at Junee?

Mr COLLINS: Good questions. Discussion with prison officers is quite unusual. The truth is there is a very big cultural gap between prisoner organisations and prison officer organisations, not surprisingly. We are a resident in Trades Hall, and we are part of the union movement. The unions have always supported the prison movement. There has always been that bridge between unions generally and Unions New South Wales and the

PSA, but not of the Prison Officers Vocational Branch area. Recently, over the past few weeks, there have been discussions between individual prison officers and also at the union level with ourselves.

There is now a potential for coming to agreement on occupational health and safety, which we are now discussing. We see that as being an opportunity presented to the prisoner community that would not be attainable for a corporation. We certainly will encourage that and we expect also that the union itself will look to that as an opportunity to create a safer prison community and also achieve higher levels of resettlement after prison.

The Hon. HELEN WESTWOOD: Have you been able to have the same discussions with the union that represents the officers at Junee, the Miscellaneous Workers Union, as you have had with the PSA?

Mr COLLINS: Potentially that would be possible but it has not occurred. We have never really had any connections with Junee. It seems that they are totally separate and also see themselves as not having to deal with us as well. So we have a distance between them as a company and ourselves. There has never really been any connection except the one occasion I mentioned, we computers moving through the whole system and then they were stopped. They said they would receive it first and then the administration said, Corrective Services has told us that we cannot receive the computers.

The Hon. GREG DONNELLY: Earlier it struck me that some pretty broad statements were made about issues inside New South Wales jails, issues in which your organisation obviously has a deep interest. Is it fair to make such generalised statements? Or is it more helpful to talk about those particular jails where there are issues that should be addressed? I note that you were present this morning when Commissioner Woodham gave his testimony. Clearly there are differences in the operation of jails. Not only do we have Junee, we also have the two emerging jails that have island agreements, which obviously will be implemented sooner rather than later. There are other types, the more traditional jails. Is it not more helpful to at the issues in individual jails as opposed to a general sweep of commentary across all of them?

Mr COLLINS: We agree with that. Really that is the way I opened this issue today. We want to be involved in those discussions. The fact that that has not occurred and that there is this big barrier between the community, ourselves and all the 10,000 prisoners currently in jails and families, who want to be part of the process of bringing family members back in again. We want that process to occur. For example, the community consultative communities are, according to the agreements with Corrective Services, have to be set up for every jail. They do not exist anywhere!

Likewise, with inmate development committees, that are supposed to be set up and have meetings every month. They do not exist for most jails. They are certainly not properly operational. So, we agree with you that there should be a proper accountability for all the jails as they stand now. We are happy to deal with each one individually. We have hundreds of people who have experience, there are many trained JA mentors, for the purpose of actually giving support to prisoners. But we are blocked from doing so. We are happy to be involved in that, but it requires the Government to be part of that as well.

The Hon. GREG DONNELLY: From your network of connections in various jails are you aware of specific issues with respect to Parklea and Cessnock that formed part of a fair bit of consideration this morning?

Mr COLLINS: The interesting thing about Parklea and Cessnock is they both have significant industry. That may well be part of the reason why they are attractive to the private companies. In fact, we understand that the industry is quite significant for CSI and the loss of those two jails will have a very significant impact on the bottom line of CSI. So far as the jails themselves are concerned, we do not have remarkable feedback from either jail. They have become part of the general system.

Mr POYNDER: Mr Donnelly, I think you touched on an important issue when you talked about the broad brush, whether we talk about jails as a whole or do we talk about them individually? As a whole, looking at trends—and we can spot trends and I mentioned the trend towards warehousing and putting prisoners in prison and waiting till their sentence finishes and then getting them out again. One frustration that prisoners have, that will be exacerbated by a privatised model, is that they move on jail to jail quite regularly—space requirements, with changes in classification, changes in programs, changes in treatment. One of the frustrations that prisoners have is the lack of consistency, even with a State Government run system between jails.

For instance, in Silverwater inmates are not allowed to have a proper toothbrush with a handle. They are given a dinky little one that you get when you fly in aircraft. Whereas, if a prisoner is sent to Long Bay he is allowed to have an ordinary toothbrush. So, that means if an inmate is sent from jail to jail, inevitably a lot of possessions that have been accumulated get tossed in the bin, because they are not right for the jail the prisoner is sent to. So we are talking about consistency in approach. I can say that that is something that preys on prisoners' minds. If they know they are going to a jail in which they are not allowed to cook meat—they get the right to buy fresh fruit and fresh food in jails but not others—that becomes a real irritant. The privatised models will exacerbate that issue because there will be different treatments. It is a valid point that you make.

The Hon. GREG DONNELLY: There seems to be a tension in the context of issues between the union representing prison officers and the position of the commissioner and the Government. I do not think I am misstating or misunderstanding him, but it seems to be a movement towards centralising, and I think this is what he was saying. I mean centralise not in the way we sometimes think about that as bureaucratisation and inefficiency and so on, but to get a better handle on issues operating inside jails, particularly procedural and administrative ones. That is to try to achieve some consistency, or work towards some common standard and move away from what appears to be a degree of autonomy that operates at individual jail levels. Certainly in the area of overtime and sick leave, at least on the face of it, it appears to be potentially problematic or, from the commissioner's point of view of actually problematic. I am not quite sure how you address that tension. You have the Government pressing a position, a prosecuting position, and you have the unions saying no. The unions say that essentially the status quo is satisfactory.

Mr POYNDER: It is a management issue that we see, the tension between the two. We think that the problem can be solved.

The Hon. TREVOR KHAN: But it is not. That is the whole problem.

Mr POYNDER: I do not know whether enough effort has been made—and I think the prison officers themselves raised that this morning—at the meeting they had in August they were not given any great anticipation that this was about to happen. It is a matter of dialogue. I think what has happened now is that it has been imposed and I do not think that the model that will be imposed is the best model.

Mr COLLINS: There is another issue as well; only two players have been represented there when in fact there are many more than two players really. There is the general community as well—maybe represented by the committee for example—and there are also the prisoners. If prison officers and the department cannot agree there are a lot of other people there who have an interest and in fact would oversight whatever agreement comes out of it. Prisoners have an interest in resolving these issues—in fact we will be affected by whatever result comes out of this. So we should definitely be involved in it at all levels. That is exactly why a community consultative committee, which is part of the agreement with Corrective Services, should function and we should make sure it occurs but the Government or the department is not doing it. Let alone the inmate development committees, which are already once again mandated, that just do not occur.

The Hon. GREG DONNELLY: On the issue of the date in August which was put on the table as being the date when the issue of privatisation of these two particular jails was specifically dealt with—it is a matter of fact as to when it got into public domain and the media—but certainly from the commissioner's point of view he claimed that since 2003 there has been continuous ongoing discussion between the Government and the union on the issue of overtime and/or sick leave and little progress has been achieved over that period of time?

Mr COLLINS: We saw a report back in 1996, I think it was, that came before Parliament saying that there were rorts in overtime of so many million dollars back then in 1996. So the issue is there all the time. Quite honestly it comes down to good management. I mean you would not run a business like this: this is ridiculous. Best of all, Corrective Services are faring so remarkably with 47.3 per cent coming back again—you would not run a business that way.

The Hon. TREVOR KHAN: Perhaps you have answered part of a question. No business would run prisons like it seems they are being presented as being run at the present time?

Mr COLLINS: Sure. We run a business ourselves. At the very least you have to make sure that your bottom line works and your bottom line is not necessarily the budget—when it is Corrective Services it is correcting people. That is 47.3 per cent and a promise to reduce it by 10 per cent with not even an effort being

made. The major activity is privatisation and it does not even mention the State Plan and the drop in the recidivism level. There is no discussion with us. How can you have people going out into the community and not reoffending when you have the prisoner community outside wanting to welcome and support them and unable to do so? We are not even able to go in and help them on the way out and we are not even charging money for it!

The Hon. GREG DONNELLY: On the question of overseas jurisdictions and experience, from your knowledge and the research your organisation has done, can Justice Action point to a particular overseas example of a jurisdiction or state that operates, if I can use the crude phrase, their jail system in an exemplary way or a way Justice Action considers to be quite good?

Mr COLLINS: The Scandinavian countries do it the best. There are a few instances of people going over there and doing an inspection and finding it refreshingly better than what we have here, in America and in the United Kingdom. But we do have a chance coming out of this resounding accepted failure. I mean by doing what it is doing the Government is actually saying, "We cannot manage it ourselves so let's give it to a public corporation." The Government is saying that it has failed. Maybe out of that failure there can be an acceptance of something different. There is a chance to say, "Let's involve the community." There is an opportunity to involve the community who is involved anyway rather than throwing it out and giving it to a corporation to take it over.

The Hon. GREG DONNELLY: I do not know that the Government has taken the concession that far with respect. I have not seen the terms of the island agreements of the two new sites but I can only presume the Government was satisfied with the outcome of those negotiations because it signed off on them?

Mr COLLINS: So likewise could it be resolved too in negotiations? I thought we heard from the prison officers earlier that as far as they were concerned they were still negotiating and then the Government came in and just took it away.

The Hon. GREG DONNELLY: I am not quite sure that was the way the matter went but we will leave that for another time.

CHAIR: The time for this session has finished. Mr Poynder, would you like to table the statement you have brought with you today or are you happy to incorporate that into your submission?

Mr POYNDER: I will incorporate it into my submission, thank you.

(The witnesses withdrew)

MARK ISAAC ARONSON, Emeritus Professor, Faculty of Law, University of New South Wales, affirmed and examined:

CHAIR: Would you like to make an opening statement?

Mr ARONSON: I came along with lots of notes but I heard Brett Collins stealing a lot of the thunder. I would just like to say that I am not here for ideological reasons. I do not have a position ideologically either for or against privatisation and people who do really drive me nuts because it is too big a question and too grand the answer. It seems to me that privatisation in its many forms can work well; it can work poorly too. Government can work well and poorly. It seems to me if the Government is going to proceed down the privatisation and outsourcing path in this area that it has to take note of the sort of comments that Mr Collins was making—and others presumably—and involve the public a lot more in the construction of the contract, involve the incarcerated a lot more in the outcomes that it wants to achieve, and insert performance measurements and criteria by which we in the public, not just the Treasury or Corrective Services, can assess down the track the extent to which, if at all, privatisation has achieved any of those measurements.

I heard—and I am just reacting off-the-cuff here—Mr Collins talking about uniformity of standards across the prisons. I am a great believer in not having uniformity frankly. It seems to me that there ought to be competitive arrangements or incentives for improving conditions and not for drilling down to the lowest common denominator and you can do that in a number of ways. If you are looking at lowering the appalling recidivism rates in the New South Wales prison system you can build in economic incentives for doing that. Now how you would measure those and the extent to which the incentive would be a real reward is a matter of negotiation, but you can do that.

The only other introductory comment I would like to make is that whatever else happens—assuming that these moves go ahead—the legal rights and obligations of prisoners should not be altered, and that includes access to appeal tribunals, judicial review, the Ombudsman and freedom of information [FOI]. FOI is enormously important in this area I think and it will need amendment to take in these so-called private sector operators because they are private sector but they are operating a public service and to that extent their records should obviously be made available. Finally, I think the Government should be, if you like, the defendant of last resort. If—and it happens—a privatised operation becomes insolvent then they should not be able to just walk away and leave the mess for the Government to pick up without its contractors also having to suffer some sort of consequence. So the stepping powers, if you like, should be fairly carefully drafted.

CHAIR: We will now go to questions and for a change we will start with the Government members.

The Hon. GREG DONNELLY: I have not had a chance to read in detail your submission because it was only circulated to the Committee about five minutes ago. Based on your submission, would you draw to the attention of the Committee the specific matters that you consider deserve major attention in our consideration of the terms of reference? Clearly there is a major issue agitating between the Government and the employees in some prisons to do with overtime and other work-related matters, which has got to the point where the Government has made a policy announcement. From what you have said you have not come here to give specific advice on how to handle industrial relations but rather to make some broader comments.

Mr ARONSON: I will try and address that specific issue. I certainly would not address industrial relations—I have no expertise in that at all and I would not want to really. It does seem to me that it is an obvious plus if the Government feels that its agencies cannot get out from under the undue control or influence of the unions but there are some obvious minuses too. With the law and order policy of both parties being as it is prisons are a guaranteed industry even in an economic downturn. If I were running a private prison the way I could guarantee more business is to make my prison really appalling.

There is a perverse economic incentive unless the contract provides otherwise—and this is the point of this part of my submission—not to do well in terms of rehabilitating the prisoners. It is hard to see frankly how they could do worse than the Government prisons are doing at the moment but perhaps they could. I am not addressing the particular issue of overtime and sick leave but any pluses that might be saved from that need to be balanced by considerations as to how to structure your contract so you do not lose the pluses in some other way. If the result of the privatised prison service is that you have an increase in recidivism then you have lost—the loss will come later but you have lost.

The Hon. GREG DONNELLY: This maybe outside your area of expertise so forgive me for asking—I am not quite sure how broad your area of expertise is—but in terms of publicly run prisons versus privately run prisons overseas and whether or not they have been successful is there anywhere the Committee should be looking to compare and contrast if these alternate models have worked or not worked?

Mr ARONSON: It is true that I am no expert on that but I have read a lot of the privatisation literature and frankly you can see where it is coming from with the abstract: privatisation is never efficient, it is always efficient, it never works, it always works et cetera.

The Hon. GREG DONNELLY: The argument is ideological?

Mr ARONSON: Very. If you try and drill down a bit to find some sort of external measurement criteria for assessing what is working and what is not then you are going beyond my ken. I think you would need to look at recidivism rates as clearly the biggest indicator. Also, escape rates, injury and suicide, et cetera. There was a prison in Victoria that had an appalling suicide rate until the Government took it over again. All of the agreements on prisoner care were essentially paper agreements; they were not being operated. The coroner, as I recall, produced a report—I could not give you the exact chapter and verse reference for that—about 10 years ago,

The Hon. GREG DONNELLY: In relation to those matters you referred to, and you did not go into detail about the nature of the contract, presumably if the Government was to go down this path you would propose a need for a very detailed and comprehensive contract, which dealt with a whole range of issues, to provide a basis of certainty that the Government would have these key issues properly managed.

Mr ARONSON: A fair bit of detail, that is true. I think there are some things that you simply cannot stipulate in advance and you have to set up some sort of contractual platform for the parties to get together and talk about how they will confront issues that they have not provided for or thought sufficiently about, without necessarily increasing costs, unless the changes are going to increase costs significantly above a certain level. These contracts are really relational contracts. They are not you or I purchasing a car, which is a one-off transaction. A relational contract where the relationship will go for, say, 10 years cannot provide for everything in advance, so it has to set up platforms for ongoing resolution of issues.

The Hon. GREG DONNELLY: And following from that, I imagine, a capacity to monitor in a pretty thorough and comprehensive way to ensure that the various aspects are being properly met or satisfied.

Mr ARONSON: Absolutely, and including in that capacity to monitor a capacity for us the general public to monitor the monitors. It is all very well having statements of reassurance from government agencies of one sort or another that everything is working well. It would be rather nice to be able to measure, for example, the current situation against that which was predicted when the move was initially made. You will notice in my submission I said, for example, that we ought to know what the Treasury costings are and then be able to come back to those three or four years out and see how accurate or otherwise they might have been.

The Hon. GREG DONNELLY: On the issue of commercial in confidence, which seems to be often used—I am not using it specifically in the context of Junee jail but as a general comment—as a veil to protect a position, which makes the arrangement less than transparent, can you direct us to any examples to do with the management of jails where we do not run into this issue of being unable to see the detail of an operation because it is commercial in confidence?

Mr ARONSON: After the Coroner's inquest into the high suicide rate at the women's prison—I think it was near Geelong about 10 years ago—the Government, or it might have been the next Government, but pretty soon after, decided it would mount the major contracts on a website. At the time I was able to get very easily—I do not have it now—the prison contracts, and the CityLink contracts for the freeway system—all sorts of contracts. There are various governments that do that. That depends on the Government's discretion. There was no amendment to the Freedom of Information Act to require that material to go onto the website. In other places, for example South Australia, Acts have been amended so that key performance indicators or details of the contract have to be made available, but not necessarily price and other genuinely commercial considerations, which should obviously be kept secret.

What you got was the front page of the contract; that is all. The Australian Capital Territory has legislation that regulates the ability to use commercial-in-confidence clauses where the expenditure is—I forget

the figure—something like over \$50,000 or \$100,000. There are all sorts of wrinkles and exceptions but it is not a bad start. I would have thought that in this area where punishment is pre-eminently a public function there is very little genuine claim for most of this information remaining in confidence. Most of it is not commercially confidential. There are some aspects that genuinely are, I think, but most of it is not.

The Hon. HELEN WESTWOOD: To continue on the same theme of freedom of information and commercial in confidence, I am glad you gave us some examples of contracts for privatisation outside prisons because it is important to look at other services and projects where the private sector has been involved. One of the arguments that we often hear about the need for commercial in confidence is that it will discourage the private sector from tendering for projects or services and that there is a risk of theft of intellectual property or information that the corporation has paid for being stolen by their competitors. Do you have a view on that? Is there evidence to support that either in Australia or overseas or is there evidence to the contrary?

Mr ARONSON: I do not know about the evidence. The previous Auditor-General in New South Wales, Mr Harris, was scathing about broad statements like that. It is obvious that there is commercial information, intellectual property information and organisational structure information that a tenderer would not want to be out there in the public domain because it might be snatched for nothing and they have developed it at great expense. That can be handled by giving more attention to the structure of what is genuinely commercially valuable and what is not. The other thing I would say is that once you have a global protection of anything that the contract labels as confidential you are in fact being anticompetitive in the long run because the bidders that were not successful will not be able to find out or get any hint as to why they were not successful. They will eventually be driven from the market. You will eventually have only one operator as the dominant player. That is an issue, but frankly it is an overstated issue.

The Hon. HELEN WESTWOOD: With regard to relational contracts that you spoke about, are there examples that we can point to in other States or overseas? I wonder about local government. We have had competitive tendering in local government in New South Wales for some time and certainly in some of the other States. Have they run up against some of the problems that other contracts in government have experienced or have they come to terms with the need for penalties and reward provisions? Do we have examples of well-written well-structured contracts with the private sector in New South Wales or other States?

Mr ARONSON: That is a hard one. I will not answer that in relation to the local government area because what I know is not sufficiently broad-based to be able to give you a real answer. I have examples of appallingly structured contracts. Easily the best example is the London Tube modernisation. They thought they had covered every angle. The cascading contracts filled a bookshelf. If you were acting as a contract adviser to one of the subcontractors or sub-subcontractors you found that you did not understand the contract that was being offered you unless you looked at all the other contracts up the line. Therefore, any alteration in any of these cascading contracts necessarily had flow-on effects through the system. It was bizarrely complicated. It might have looked like a well-constructed plan but it was so gothic it could not work. In other words they did not make enough allowance for relational discussions. They tried to provide too much in advance.

One of the reasons it did not work, and there were several, was that one of the chief contracting parties, Transport for Greater London I think it was called, was going to be headed up by a bloke who really wanted the privatised system to do the modernisation. Then suddenly Ken Livingstone was elected as Mayor. He did not want it; he wanted it to fail. That might be a lesson here too. If there are parties in management seats who are really against the proposal in these relational discussions you might be heading for some trouble.

CHAIR: We will now go to crossbench questions.

The Hon. ROY SMITH: Not for me, thank you.

Ms SYLVIA HALE: Following on from that, clearly what the Government intends is that there will be a number of privatised prisons alongside a number of prisons that the Government has said will not be privatised, for any number of reasons: either they are too small or they are geographically remote, and for some reason that is not entirely clear a women's prison will never be privatised. Do you see this existence of dual systems as giving rise to potential conflicts rather than one providing a benchmark for the other? They could each be determined to show how inefficient or unwieldy the other system is.

Mr ARONSON: If they were determined to show how inefficient the other was you would then have a competition to improve, not degrade. That would go the other way. I cannot remember the name of the fellow

who was sitting here but he made a very good point that a prisoner who is incarcerated for any length of time in New South Wales is likely to move between all the prisons, or at least a good many of them. That means there is an extra incentive, I would have thought, to lift your game, otherwise you will have greater tension as the witness said.

Ms SYLVIA HALE: Your submission was one of the earliest that the Committee received, but in evidence today the Prison Officers Association said it became aware of the proposal to privatise Cessnock and Parklea only in August the day after the mini-budget was announced. Despite this inquiry taking place the commissioner has already notified staff at Cessnock that the outsourcing is going ahead regardless and given people opportunities to apply for voluntary redundancy or placement elsewhere or for jobs within the new regime. Given that your third point is that Treasury forecasts of the costs and savings to be achieved should be open and information should be collected and made publicly available at regular intervals, do you think the process the Government is following at the moment is an appropriate public process?

Mr ARONSON: Once again I will steer clear of the industrial relations. It makes me awfully suspicious that they figured out what they want in their contracts. Alternatively they have not paid much attention to it and they are deciding this as a global single-box response to industrial issues—let us privatise, we will get out from under them. It seems to me that that is really only the start of the problems, that if you come to the decision that your negotiations in industrial relations are intractable and that you have to go down the privatisation path, there are all sorts of ways in which you can do that. What you say to me today hints to me that they may well have precluded any further genuine discussion as to what might go into the contracts and who might be the monitors and so on.

Ms SYLVIA HALE: Would you care to outline what you think would have been the preferable way to proceed?

Mr ARONSON: Certainly: To sit down and call for submissions not simply on whether there should be privatisation but, if there is, what should go into it—what the safeguards should be, what the performance measures should be, how we should be able to check whether those measures are being met, the rehabilitation measures and so on, the step-in powers, when a prison is so poorly run that the State has to step in with its own officers. All of those issues need discussion I think. A lot of people in the industry, including those with whom the Government might be feeling fairly antagonistic, nevertheless have a lot of information and can share that information and say, "If it is going to go ahead, let's make sure that it works properly."

Ms SYLVIA HALE: You would agree that where there are developing key performance indicators, they should be developed in the context of a broader public discussion of what we want as the ultimate outcome from our corrective services?

Mr ARONSON: Absolutely.

Ms SYLVIA HALE: At the moment it seems that the essential performance indicators that the department is using are overtime rates and sick leave rates, whereas, for example, Mr Collins earlier today was saying that one of those key measures should be the recidivism rate. Presumably, other measures could be used?

Mr ARONSON: Certainly. The recidivism rate is reduced if you have the prisoners suiciding, to be blunt. The industrial relations issues of overtime and sick leave are money issues ultimately. As I said in my opening statement, the money saving there can be lost very easily with poor recidivism rates.

Ms SYLVIA HALE: It is often said with privatisation or private contracts that governments can, say, rather than increasing the deficit by having to undertake major capital expenditure, by contracting it out it does not appear to be such a black mark against the government's borrowing record. Is that your experience in looking at these contracts?

Mr ARONSON: It is a good argument. If the Government's interest rates are going to shoot up if it borrows above a certain amount—and I understand they are pretty near that threshold—they have to look at other ways of financing. To me, financing issues are one thing but how you run and structure what you have financed, or arranged finance for, is another thing entirely. I do not have a problem with saying the money we borrow will be better spent on hospitals or schools than on parks and gardens, or whatever. That is a policy decision. Whatever it is that you have borrowed and however you have borrowed—how that is spent, to me that is the bigger issue.

Ms SYLVIA HALE: It is also suggested as a counter argument that whilst the Government may avoid the capital outlay, the long-term contractual costs that are involved in many of these agreements will cost the public ultimately far more than the initial cost might have been if it had been kept within the public domain.

Mr ARONSON: I think we are back to grand questions. You are sometimes right and sometimes wrong. I would not mind betting that the Cross City Tunnel has now come as a bargain to the public and that the investors were the ones who lost out on that one.

The Hon. TREVOR KHAN: We are still paying a Harbour Bridge toll, and it was paid off ages ago. It has never been in private hands.

Ms SYLVIA HALE: There seems to be a declining level of public scrutiny within our jails, in so far as the inspectorate of prisons has been abolished, I understand, there is a curtailing of the powers, rights or activities of prison visitors, and we have heard today from Justice Action that not only will the Government not talk to them but the Government has failed to establish the community consultation committees and the inmate development committees. Do you see this as a worrying phenomenon in terms of the privatisation of jails?

Mr ARONSON: I see it as a worrying phenomenon beyond those terms. I do not see it as specifically a privatisation worry. I think this Government's administration of the FOI Act is appalling. Prisons are one of the worst respondents to FOI requests. Those comments I can make without saying it will get worse or better if the prison goes private.

Ms SYLVIA HALE: Why do you think the prisons are such poor respondents?

Mr ARONSON: I am not sure. I have spoken to various tribunal members on the ADT about it, and they are appalled at the run-around that prisoners get from their FOI applications. Why that should be, I really do not know. Whether it is that the applications are handled at too local a level, and therefore by people who are in actual conflict with the prisoner making the request, or whether there is simply a culture back-up at head office, or whether there should be an information commissioner—I think there should be—who takes control of FOI in the policy or discretionary areas to iron out the obstreperous behaviour of some of the agencies as compared to others.

Ms SYLVIA HALE: You say that the State Ombudsman's legislation should be extended to take in prison contractors. That would be one way of ensuring that any privatised regime was accountable, or at least potentially accountable or possibly accountable?

Mr ARONSON: It sure would help. The Ombudsman at the moment has jurisdiction over public outfits. So it would have jurisdiction over contract management, but it would not have jurisdiction over the formulation of the contract. Documents in the hands of a private operator are not, unless there is a deeming clause in the legislation to the contrary, government held documents for the purposes of FOI.

Ms SYLVIA HALE: So it would be desirable, then, that prior to entering into any such contract, if the Ombudsman's Office could at least have some input into the material that should be publicly available?

Mr ARONSON: I agree. The example I would look at is the Commonwealth Ombudsman's Office. They had a tenuous relationship with the privately run immigration detention centres. If push came to shove, those centres did not want to really press the point that some of their documents were beyond the FOI's reach and beyond the Ombudsman's reach, because they thought that they would provoke a political reaction. In the end, when the Cornelia Row and Vivian Salvos cases became public, there was a huge scandal there. Part of the clean-up of that area—and it went through without any fanfare at all—was an extension of the Ombudsman's jurisdiction. Essentially there was a one-clause provision inserted into his Act that said, "Treat those centres as if they were public." He told me that it just made it a wee bit easier, because if they really came to a confrontation the detention centres would back off rather than force the issue. It would be handy to do that here too, I think.

Ms SYLVIA HALE: Given that one of the tenderers for the contracts for Parklea and Junee is also the contractor who is running the veterans detention centres, the expectation would be, in the absence of any provision in the legislation, from the contractor's point of view they would be dead-set keen to ensure that the contract did not provide anything that would require them to reveal material. Whereas the Government, presumably, if it had the public interest at heart, would be keen to incorporate such a —?

Mr ARONSON: There are a fair few presumptions in that. Certainly if I were acting for the tenderer, the first clause I would have in the draft would be a confidentiality clause: "Nothing in this will go public". Under FOI, that would exempt the entire contract.

Ms SYLVIA HALE: That is a feature of private contracts, is it?

Mr ARONSON: It is very standard. Why not, if you can get away with it? At the moment we have governments around the country who are not too fussed by it.

CHAIR: Are you aware of any other State governments that have private prisons where they have Ombudsman oversight of the contracts?

Mr ARONSON: I think Victoria does, but I would have to go back and dial up their latest legislation; I have not checked it for a couple of years. As for the others, I am not sure.

The Hon. TREVOR KHAN: As to the Auditor-General, do you know if the Auditor-General in Victoria or at a Federal level has some oversight of detention centres or prisons?

Mr ARONSON: They do. Essentially, any institution which has a lot of government money spent on it in one way or another comes under the Auditor-General's role. I could say that Mr Harris' comment about the overuse of commercial in confidence clauses was endorsed by all the other Auditors-General.

The Hon. TREVOR KHAN: When I look at your submission, which I thought was quite comprehensive, it seems to me that what you are really saying is the devil is in the detail if it goes down the privatisation route?

Mr ARONSON: Yes.

The Hon. TREVOR KHAN: If you looked at, say, roads as a parallel in terms of public-private partnerships, some of them have worked well and others have been patent disasters. We have seen those in New South Wales in recent times.

Mr ARONSON: Yes.

The Hon. TREVOR KHAN: In terms of a benchmark, you spoke about recidivism. Am I right in saying that one of the difficulties with using that as one of your benchmarks is that if we had an environment where prisoners are being moved from prison to prison, you would have real difficulty in using it as a benchmark for any particular prison if a person is cycled through five prisons over the term of his sentence?

Mr ARONSON: That is a good comment. You might have to break down the recidivism benchmark into something more specific, like educational and retraining facilities and stuff like that.

The Hon. TREVOR KHAN: So one would get down to the specifics of requirements in terms of educational hours that are available, the nature and structure of courses and the like?

Mr ARONSON: Yes. That is going to call for some serious thinking on the Government's part as to how much money it is prepared to spend on that. It has withdrawn a lot of those services from the government prisons.

The Hon. TREVOR KHAN: Perhaps also one needs to look at outcomes with regard to drug usage or non-usage during the term of an inmate's time, for instance. That is, you do not want them coming out the other end still hooked?

Mr ARONSON: I agree.

The Hon. TREVOR KHAN: One could get to a series of specific benchmarks that would achieve the outcomes that the public would expect to come out of the prisons that do not seem to be benchmarks at the present time?

Mr ARONSON: I agree.

The Hon. TREVOR KHAN: If those were incorporated in a contract, subject to appropriate supervision, you might in fact achieve definable outcomes that seem to be lost in the public system at the present time?

Mr ARONSON: Absolutely.

The Hon. TREVOR KHAN: For instance, if you went back to education, we have very high levels of incarceration among the Aboriginal community, that is right, is it not?

Mr ARONSON: Yes.

The Hon. TREVOR KHAN: What we often find is that those principally young men, perhaps kids, who are going into the system are extremely poorly educated and suffer a variety of health problems, even at a young age?

Mr ARONSON: Yes.

The Hon. TREVOR KHAN: You would agree with me that they seem to slip through the system and are no better, indeed are probably worse, after their first term of imprisonment?

Mr ARONSON: Yes. They rehabilitate when they turn 30 and have a wife and kids basically.

The Hon. TREVOR KHAN: Or, in truth, as you said before, pass away before they achieve the outcome?

Mr ARONSON: Yes.

The Hon. TREVOR KHAN: In a sense what we have in New South Wales is a penal system that has, in large part I suggest, failed miserably the community in terms of achieving real outcomes?

Mr ARONSON: I think that is right and probably a few people in this room have to share the blame for that, to be fair.

The Hon. TREVOR KHAN: I think that is right.

Mr ARONSON: I think we are in an increasingly denouncing penal mode; retribution, denunciation, without looking to what we want to achieve at the end of all those moral outbursts. I just hope that at some stage the ship can be turned around and we start to be a bit more pragmatic and look at trying to achieve better outcomes.

The Hon. TREVOR KHAN: I know you wish to avoid the exercise, but if what we do is essentially define the current model as a failed model, to reject privatisation out of hand, as perhaps some of the witnesses have here today, misses the point; really we cannot do much worse than what we have already got?

Mr ARONSON: I do not reject it out of hand.

The Hon. TREVOR KHAN: I am not suggesting you do, but it is commonsense, is it not, that if the current system does not work, it is worth looking at another one?

Mr ARONSON: Yes, it is, and that other system can be managed in different ways and structured in different ways. I would like to see some competition for improvement.

The Hon. TREVOR KHAN: Is there some reason to consider a statutory committee model for oversight, somewhat akin to the ICAC committee, so that there is some parliamentary oversight of a prison system?

Mr ARONSON: I think it is essential.

The Hon. TREVOR KHAN: So that in a sense it would provide some ongoing review in the same way that the ICAC and other bits and pieces are done by that committee?

Mr ARONSON: I think it is essential. It need not have star chamber powers that perhaps the ICAC has but there has to be a decent standing committee that is well serviced in terms of secretariat and research staff and so on and that is accessible from a wide range within the community, yes.

The Hon. JOHN AJAKA: I noted from the earlier evidence that at the end of the day the Commissioner for Corrective Services and the department still ultimately have the oversight responsibility for the private prison; they still seem to have some control and there is the possibility of some conflict in that regard. What are your views on whether there should be someone completely independent of the department and the commissioner in the sense not of the ICAC committee but another authority?

Mr ARONSON: I will bat that one back to you because I am not sure what sort of control or what you want controlled by this other body. It seems to me that punishment is a State function ultimately and determining how much and the severity of the conditions and so forth in the end have to be decisions made by State officials. They can be informed by private operators but the buck stops with the State and the State is exercising statutory power over prisoners' lives and wellbeing. Whether you would have their day-to-day running or whatever or timetabling of shifts and so forth in the hands of a committee, to me, that would be pretty worrisome, frankly.

The Hon. JOHN AJAKA: I am trying to ascertain who actually determines whether a business should be immediately allocated to a private institution as opposed to a public institution? Who suddenly has the authority to decide so that from a corruption prevention point of view of someone being paid a lot of money to ensure that people are suddenly being allocated to their prison? What would be your views on who should do the actual allocating?

Mr ARONSON: I cannot see it as being done other than by way of classification decisions. As you know, the classification decisions take the first three or four weeks of incarceration. As for the potential for corruption, I suppose you are referring to the news report a week or so ago of the judges on the take.

The Hon. JOHN AJAKA: One witness mentioned that earlier.

Mr ARONSON: I do not think the prison corporation is going to have any shortage of customers.

The Hon. HELEN WESTWOOD: It is very depressing.

Mr ARONSON: It is very depressing.

The Hon. JOHN AJAKA: So at the end of the day I guess we are faced with two options. In sentencing a judge, as part of his presentence report, may make recommendation A against B as opposed minimum-maximum, et cetera. On the other hand, it will be through the department, through their classification mechanisms, that they will decide whether they will send this prisoner to a public institution and this prisoner to a private institution. Does that create some conflict within the department's own classification?

Mr ARONSON: I do not see it really. Also, I cannot really see a judge at a sentencing hearing having enough information or the will, for that matter, to do the classification for the Government.

The Hon. JOHN AJAKA: It was mentioned earlier that if one was to look at the terms and conditions of the contract, which has to be paramount, would a system of bonus to a private enterprise on the basis that they met the benchmarks, repeat offending numbers are down enormously, education programs are up enormously, should an incentive be built into the contract to that effect?

Mr ARONSON: Absolutely.

The Hon. JOHN AJAKA: With a private institution there will be numerous, almost hundreds of subcontracts, is that not so, in one form or another?

Mr ARONSON: Yes.

The Hon. JOHN AJAKA: Purchase orders, et cetera, who comes in and who is working. There is going to be a dilemma with a private institution as opposed to the public if all of a sudden they owe millions of dollars in expenses or contracts and they suddenly find themselves in liquidation. What happens then? Does the Government suddenly step in and take over the prison and all the outstanding fees? We have heard where some government departments are not paying bills when they fall due but ultimately those will be paid; hopefully the Government will not go into liquidation. This can be a serious problem with a private jail and it goes into liquidation and the whole community may not be paid?

Mr ARONSON: I think you are right. The interesting thing with some privatised operations for the public benefit is that everybody knows that the Government will step in at the end, even if they are not contractually obliged to. Everybody knew that if the Tube organisation fell over, the Government would take it up. Everybody knows that if a privatised water corporation goes bust the Government is going to have to take it over. What else is it going to do? You can say the same for government business enterprises; in other words, they are not privatised but they are meant to run on a corporate model.

My easiest model comes from New Zealand where Auckland Power—it did not have that name but another fancy name—was told to operate on a profitable line as if it was a private corporation; its Act actually said that. When a woman repeatedly refused to pay a bill because she could not, she said, they turned it off and she died because her ventilator would not work. There was a huge outcry and of course the Government came in as the guarantor in that sort of situation. It had to. There are some situations—and prisons are an obvious example—where we all know that the Government is going to step in. The contract should provide for the financial consequences to all of the parties involved of step-in procedures.

The Hon. JOHN AJAKA: Including guarantees that any outstanding moneys owing by the private corporation will be paid?

Mr ARONSON: If those guarantees are paid for as part of the tender price—not a guarantee for free. I would not provide a guarantee for free. It is just an insurance contract, is it not?

The Hon. JOHN AJAKA: The other problem is what happens if the private enterprise starts to slow down its payments and all of a sudden you find yourself in a situation where food is not being delivered on the due date and other necessities are not being delivered to the prisoners. There would have to be some system to monitor that and ensure that does not occur?

Mr ARONSON: That is true. You need the Government to have power to step in and keep delivering the food or whatever. What you are talking about there, it seems to me, is the same as an area where you have any essential service, say banks, that are looking a bit wobbly; the cheques are being post-dated or whatever. It is a very delicate regulatory situation, I think. It will first be handled behind closed doors. I think it has to be, but eventually the Government needs to be able to step in if it looks like the corporation simply cannot rectify the situation.

The Hon. JOHN AJAKA: But we are dealing with prisoners who, at any time, could become volatile and riot. That is the dilemma. It is not as if we have an appropriate amount of time that we can look after it next week or the week after. We would want to ensure daily that everything is going according to the terms of the contract so the oversight and monitoring would have to be substantial, far more substantial than any other situation?

Mr ARONSON: You could have a complaint line. That would handle that. If I am not getting fed, I would complain.

The Hon. JOHN AJAKA: You have to have access to the phone.

Mr ARONSON: Why not?

CHAIR: Time for Opposition questions has expired. In relation to a private prison like Junee where the private operators have constructed the prison and then had to contract to operate it, if, for example, that private corporation went bust, presumably the State would get control of the facility and then be responsible for operating it. What sort of safeguards would you be able to put in place in terms of the corporation defaulting on a contract in circumstances like Parklea and Cessnock where the Government already owns the infrastructure and gets other people to come in and operate it? Could any safeguards be built in there?

Mr ARONSON: It is easier because there is less that is being defaulted on. It is the provision of services in essence that you are talking about and if the company providing the services—whatever they might be, medical, guarding, educational or food, et cetera—goes bust on that, then reallocate the contract or step in and do it yourself.

The Hon. TREVOR KHAN: And terminate the lease.

The Hon. HELEN WESTWOOD: Terminate the contract.

The Hon. TREVOR KHAN: One assumes there would be a lease over the property.

Mr ARONSON: Yes.

The Hon. HELEN WESTWOOD: I will go back to one of my earlier questions. You gave an example of a poorly written construction contract, which was the London Tube. Could you give us an example of a good contract? Do you think we have capacity within Australia for well written, well structured contracts within government to be written and developed?

Mr ARONSON: No, and yes. I cannot give you examples because the literature always deals with the failures, for fairly obvious reasons.

The Hon. HELEN WESTWOOD: Fair enough.

Mr ARONSON: As to whether we have the capacity—yes. Why not? But, as I say, contracts have to be constructed carefully, and that means that the people involved should not assume that they know everything. They should try to get as much information and suggestions as is possible.

The Hon. HELEN WESTWOOD: I will summarise some evidence we heard this morning suggesting that the reason we are looking at privatising Cessnock and Parklea is because they are the problem children of the family. I am wondering whether in the light of your experience and expertise you have formed a view whether that would be a valid reason to privatise? Is it more likely or less likely to lead to a successful contract?

Mr ARONSON: Once again, it is a fairly grand question. But if they are, as you summarise, the problem children of the system, then there might well be an intractable culture there. Whether it is only in industrial relations or beyond, I am not sure; I would not know. If there is an intractable culture, as you know, the hardest thing to change is culture. Sometimes a clean sweep is not a bad idea.

Ms SYLVIA HALE: You ask why the capacity should not exist in Australia to draw up an appropriate contract. Given that the key parties in this instance would be Treasury, which is anxious to produce a result that is at least cost to the community and you have them making significant input and that you have Corrective Services itself, which you say has a culture of secrecy and non-responsiveness, presumably in this area they would be the key players. How do you open up that contracting process to the public to ensure that broader issues are taken into account, and are simply taken up as a concern but not in a token way? Everyone is familiar with public consultations, but things just happen regardless of whether consultations have taken place or not.

Mr ARONSON: You are asking me how you make a government better.

Ms SYLVIA HALE: Yes. That is presumably the purpose of the inquiry.

Mr ARONSON: Get a better Opposition.

The Hon. TREVOR KHAN: Thanks for that!

Ms SYLVIA HALE: You say that we need more openness?

Mr ARONSON: Yes. You need more public involvement. To have more public involvement, you need to be credible when you say that you are interested in public consultation and that it is not mere tokenism. If that involves the discomfort of sitting down with people you really do not like terribly much, so be it. It seems to me that sitting down in that way can actually be very productive.

Ms SYLVIA HALE: Do you know any examples where that has taken place?

Mr ARONSON: I cannot give you them, no. I gave you a reference to an essay by Alfred Aman in Indiana, and he gives examples. Obviously over there they have a much larger prison population than we do, and they have a lot more experience about constructing contracts. They also have a more punitive political scene too, I have to say.

CHAIR: The time for this session has expired. Thank you very much for your evidence. It was really interesting.

Mr ARONSON: Thank you.

CHAIR: It has given us some good material to work with for the inquiry. Of course, if you think of anything other should know, feel free to contact the Committee. Whether that is to point us in the direction research papers or whatever, we would be very happy to receive that advice from you. I would like to thank you for coming along and for making yourself available today.

I thank those who have attended in the public gallery. I know that some have been in the audience all day. I thank you for your interest in the inquiry. The Committee will proceed to have a quick deliberative meeting to consider the ongoing course of the inquiry. Thank you for your attendance today.

(The witness withdrew)

(The Committee adjourned at 3.35 p.m.)
