

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS

**PARKLEA CORRECTIONAL CENTRE AND OTHER OPERATIONAL
ISSUES**

UNCORRECTED PROOF

At Macquarie Room, Parliament House, Sydney, on Thursday 2 August 2018

The Committee met at 9:45 am

PRESENT

The Hon. Robert Borsak (Chair)

The Hon. David Clarke

The Hon. Scott Farlow

The Hon. Shayne Mallard

The Hon. Shaoquett Moselmane

Mr David Shoebridge

The Hon. Lynda Voltz

UNCORRECTED

The CHAIR: Welcome to the Portfolio Committee No. 4 – Legal Affairs inquiry into Parklea Correctional Centre and other operational issues. The inquiry is examining a range of matters concerning the management of Parklea Correctional Centre as well as investigated rapid build dormitory prisons and the benchmarking of prisons in the State. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today's is the second hearing of this inquiry. The third hearing will be heard on 28 September 2018. Today we will receive evidence from the Public Service Association, Justice Action, Community Justice Coalition, Legal Aid NSW and Professor Gary Sturgess.

Before we commence, I make some brief comments about procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, while members of the media may film or record committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments they may make to the media or to others after completing their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation.

The guidelines for the broadcast of proceedings are available through the secretariat. There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Witnesses are advised that any messages should be delivered to committee members through the committee staff. To aid the audibility of this hearing I remind committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near loudspeakers for persons in the public gallery who have hearing difficulties. Finally, could everyone present please turn their mobile phones to silent for the duration of the hearing.

TROY WRIGHT, Assistant General Secretary, Public Service Association of NSW; and Branch Assistant Secretary, Community and Public Sector Union NSW, affirmed and examined

NICOLE JESS, Chairperson, Prison Officers Vocational Branch; and Senior Vice-President, Public Service Association of NSW, affirmed and examined

The CHAIR: I now welcome our first witnesses. Would you like to make a short statement?

Mr WRIGHT: Thank you, Chair. I would. By way of introduction, I would like to point out that I have experience in Corrective Services. I was a parole officer myself for 13 years between 1997 and 2010. Two of those years were engaged in the State Parole Authority—I was a representative of that. From 2010-16 I was employed as a senior industrial officer with the Community and Public Sector Union [CPSU]. Part of that role was enterprise bargaining at the foresaid Parklea Correctional Centre with GEO. The last two years, since being elected in October 2016, I have been with the Public Service Association [PSA] and CPSU.

I am accompanied by Nicole Jess, who in addition to being the chairperson and a senior delegate and representative for prison officers across the State herself has been employed by Corrective Services for 30 years. She started her career at 20 years of age and is extremely proud of the work she does and the people she represents. She currently holds the rank of senior correctional officer at Silverwater Women's Correctional Centre, which is a remand centre for all females. It holds categories of all inmates and all classifications.

I begin by addressing some of the terms of reference and what we have sought to do in our submission. The Committee would note from our submission our format is somewhat different. We have relied heavily and deliberately on anecdotal accounts from our members. That we are the only organisation to make a submission in these terms is, we believe, telling, because it is certainly within the capacity of GEO and Corrective Services NSW, with surveys and other things they claim to have done, to have done the same thing. What we hope those firsthand accounts provide the Committee is evidence of a very seriously compromised workplace.

We believe in regard to terms of reference (a), (b), (c) and (d) it provides evidence of a workplace with a very low establishment of correctional officers, an inexperienced staff group; it demonstrates the demands of Parklea centre are far beyond those of other centres; it demonstrates a culture that has led to officially unauthorised shortcuts, a culture of errors that have arisen out of those shortcuts; and it demonstrates a real and not imagined perception of danger among the staff group. These are issues that have been compounded in the last six months by the transition from GEO and the proposed transition to the new provider in March 2019. We would be happy to take questions from the Committee about the ramifications for the staff and the operation of the centre across that 12 months.

The Committee is rightly concerned in its identification at (e) about the possible contraventions of the contract between the New South Wales Government and the GEO Group. You have rightly expressed a concern about this. Unfortunately it is something that for us is shrouded in secrecy. That will be a repeated theme in our submission. Much like mould, the practices that have occurred at Parklea Correctional Centre are ones that can only occur where people do not look and where light is rarely shone. That is what has occurred at that centre.

Whilst Corrective Services NSW have already provided the Committee with evidence claiming to have rigorously policed the contract, we argue this is not the case. This is exactly why this inquiry is important and why the inquiry has arisen. The contract remains, to our knowledge, completely not publicly available. We believe that without that being publicly available it does not lend itself to any rigorous scrutiny whatsoever. We believe it is a contradiction at the moment whilst parties have come before the Committee to claim that they have been adequately policed that they do not demonstrate this in a public way that everyone can see.

We hope that the Committee today and in its work over the coming weeks focuses on more than Parklea and more than GEO. We hope the Committee would concern itself with the fundamental question—and it has identified it in the terms of reference—about whether it is appropriate in our State to have any privately run or operated correctional centres. We believe it is a failed model. It has failed internationally, it has failed across Australia and it is now failing in our State. As far as my knowledge, my reading of the submissions and my witnessing of the hearings already before the Committee go, the Committee has not been presented with any rational or cogent arguments in favour of privatisation in this sector. There has been no argument made that there is a cost saving to the public. There has been no argument made that there are efficiency gains through the private sector running jails. In fact, we believe our evidence to the Committee provides the alternative.

There has been no evidence—and again it is a fundamental submission we want to make—that there is an increased level of accountability arising out of privatisation. We think, and we argue strongly, that conversely, accountability is far less in the private sector than it is in the public sector. There is no argument that

somehow competition is going to improve outcomes. That is because it is a false model. There are insufficient providers of private correctional centres to make it a competitive market. It is an oligopoly, and it is an oligopoly where the private providers have the stranglehold over governments looking to tender. Corrective Services NSW could only say that they were committed to a mixed model and claimed that the benefits of privatisation were an increase in technology. We fail to see any technology and we believe there is no evidence that has been provided to the Committee that there have been any efficiencies gained out of any technological implementation and, in fact, quite the reverse.

GEO made submissions that strongly refuted that it was solely concerned with making a profit. That is not the experience of our union and that is not the experience of our members. It would be a very strange model if some privately owned American multinational firm on the New York Stock Exchange was not concerned with making a profit. To suggest that it is in the field of some sort of active corporate altruism is absurd. The fundamental question we would like the Committee to consider during these hearings and through its deliberations is: is this an industry that we need to provide for the private sector?

We recognise that we live in a capitalist society but the private sector has plenty of industries to profit from and do well out of and should not include making money out of arguably the most vulnerable people in our State, that is, those who the State has ordered to be locked up against their will. That is particularly the case given that this model relies on extracting a profit from our employees through the terms and conditions of their employment and placing them in an unsafe workplace. We believe the question for the Committee should be: in whose interest is privatisation and for what purpose is it? We are happy to take any questions in regard to our submission and we are both available for all areas that the Committee may wish to inquire about. Thank you.

The Hon. SHAOQUETT MOSELMANE: Thank you for coming. You have given us a substantial submission and I thank you for that as well. I will go to page three of your submission. It states,

The current operators of the Centre, GEO (an acronym for Global Expertise in Outsourcing), was not shortlisted ... A company that was not considered suitable to even tender for the next operational contract of Parklea Correctional Centre is still permitted to operate it for the next twelve months.

Why was it not shortlisted and why was the contract given to a company that is not shortlisted and not even considered suitable?

Mr WRIGHT: Thank you for the question. It is something we have asked repeatedly ourselves. During the earlier hearings of the Committee, GEO gave evidence, and so did Corrective Services NSW, and provided an account saying that it was not the quality of the work that made it unsuitable to be shortlisted; it was the quality of its submission, as if this was some sort of high school examination and it was going to be tested purely on the papers alone. If that is accepted by the Committee, I would strongly suggest against it. I think that is a ridiculous proposition. That Corrective Services assessed the merits of who was going to run a correctional centre on behalf of the State for the next five years purely on a written submission defies belief. We do not know exactly why GEO was struck out. What we do know is that we are left with an extremely untenable situation at the moment.

GEO as a company has not even been considered to be shortlisted for the next contract. It was not considered in the top three tenderers, yet it is considered suitable to run the centre until March 2019. I can go into greater detail later about the effects of that on the operations of the centre, particularly the effects on the staff who are employed there now. We also have the ridiculous situation where GEO is not considered suitable to run Parklea and is not in the top three contenders to run Parklea, yet has a contract with the State to run another correctional centre—Junee Correctional Centre—on an ongoing basis. I believe that contract was recently renewed. I believe they are very valid questions. We do not have the answers but we are equally stupefied by the decision.

The Hon. SHAOQUETT MOSELMANE: On page 26 it states:

GEO has a long and disturbing history of poor management of correctional facilities in the US, including the Walnut Grove Youth Correctional Facility, a prison for inmates between 19 to 22 years of age. The US Justice Department found the centre to have "systemic, egregious and dangerous practices,"

Despite that definition of the organisation, the Government granted a contract, which, as you say, you have not seen—it has not been made public. Why would the Government grant an organisation that has such characteristics a contract to look after the Parklea prison, which has more than 900 inmates?

Mr WRIGHT: Again, I think the question is better directed at Corrective Services NSW. We share those concerns. The scandals involving GEO, both domestically and internationally, are easy for anyone to discover. A simple internet search will find a numerous amount of issues, which we have raised in the submission. Unfortunately, I would respectfully suggest that if you also search GEO's competitors, they have equally poor records of delivering internationally. That goes to the point I made earlier, which is that this is a

false market. There are only really three providers of private correctional centres across the world. They are: Serco, G4S and GEO. Each of them equally have been subject to numerous investigations and scandals, both in Australia and across the world. If that was the performance criteria, I believe any Government would struggle to pick any tenderer.

The Hon. LYNDA VOLTZ: Corrective Services has officers on site in Parklea who oversee the operation. There were a number of incident reports submitted by Corrective Services to the Minister over what it saw as the failings of Parklea. Was the union or you aware of these incident reports at the time?

Mr NOBLE: No, we were not. I would not describe our relationship as a union with GEO as productive—certainly not as productive as we have experienced with other private sector employers or the State Government.

The Hon. LYNDA VOLTZ: There were Corrective Services reports; they were not made by the operator itself. It was only in July, when a video was released, that people became aware that there was a contraband issue within Parklea.

Mr DAVID SHOEBRIDGE: "Issue" is an understatement.

The Hon. LYNDA VOLTZ: "Issue" is an understatement. There were problems. Although, if we look at your figures on all the correctional facilities, it would appear that there were spikes in contraband over the last year in particular. I just want to get my head around why the contraband—across Corrective Services—is spiking. In particular, we know that there were issues at Parklea. Is there some kind of indicator of why this seems to be an ongoing problem? I noticed that the supermax jail has had 13 incidents of contraband. I would have thought that would be an extremely difficult place to get it into.

Mr WRIGHT: I will turn to Ms Jess to answer that with regard to the public sector. I would like to respond with regard to Parklea though. The issue at Parklea with contraband and other incidences is that whilst contraband is on the increase across the correctional system in New South Wales and whilst detection of it is on the increase—and that is something to be applauded—Parklea out performs its peers poorly. It is the third largest centre in New South Wales but is the second-most frequent centre for the use of force, the second-most frequent centre for assaults on inmates and is ranked number one in regard to contraband. So whilst we agree that there is an increase in the detection of contraband across the sector and across the system in this State, the issues at Parklea are even greater pro rata than other centres.

The Hon. LYNDA VOLTZ: Is the issue at Parklea not that the Minister's office and Corrective Services knew about this, to the extent that they were writing reports about it? Was anyone in the service aware of just how large the problems were? They seem to think it was an extraordinary step for what they had undertaken. Were you aware at the time that those reports were coming and were they only around contraband or were they around other issues?

Mr WRIGHT: The interviews that I have had with our members, which are detailed in the submission, that outlined those issues were not surprising to me at all. They were anecdotal stories that had been related to me as their industrial officer for the past five years. I do not think there was an issue last year that was any greater than in the years preceding it. The issue was that Corrective Services NSW turned its mind to it and became aware of it. Up until that point, whether Corrective Services NSW was not aware of it or had not acted upon it to the extent that it did last year, I do not know the answer. But I can certainly indicate that we believe that those issues around contraband, violence in the jail and security issues had been present for a long time and all stem back to the same issues, which are a lack of staff, inexperienced staff and horrifically low staff morale.

The Hon. LYNDA VOLTZ: They certainly indicated, and you can check their transcripts, that they had been ongoing issues for quite some time and it got to a point where they had submitted reports. I am just trying to get to whether any changes were made or what the department had done to intervene in the process. Obviously, Parklea is a problem and they knew it was a problem. I am trying to get to whether there were any actions taken. Perhaps, Ms Jess—

Ms JESS: I am not aware of any actions taken based on the fact that we do not even actually get clear indications on what is actually happening in that centre. They are not part of the Office of Infrastructure Management [OIM] system, which records any incidences that every other centre has. As far as me being able to do the checks and balances to see what is actually recorded on that system, I cannot see if that is happening. Secondly, we hear a lot of things from that union. I do not cover that union but we hear a lot of things. They are telling us that those incidences are not being reported. They are being told, "Don't report that." It is getting pushed, like, under the carpet. They are concerned for their jobs, so they do not report it.

As far as contraband goes around the State, there is a problem. We have a major problem as far as contraband is concerned around the State. When you build a jail, say, for example on the Silverwater complex that is around a parking environment, it is very hard to stop people coming even five metres. We get tennis balls over the fence with copious amounts of drugs in that, medication, mobile phones—you can get mobile phones that are tiny—and they are coming in on the person when they come into custody. We are hearing inmates saying that the latest intel is that people are actually coming in on the basis to bring drugs into the correctional centre.

We have got visits that are contact visits. When you have a contact visit with sometimes up to four adults and five kids—there is no limit on children—it is very hard to monitor what is taking place between them. You have got drones. We have got the situation of drones being flown in and dropping contraband into correctional centres. It is a major problem. I think we need to look at the technology in regards to that area. It is unfortunate that a lot of the times it is part of the tender process for private companies. The Government area is sort of overlooked as a last resort for these technologies.

The Hon. LYNDA VOLTZ: There also appear to be spikes. Is that to do with the fact that some of the jails are well over capacity? Obviously, it will be harder to monitor. One of the problems with Parklea is the design of the jail itself, which makes it difficult.

Ms JESS: I think the design of all centres makes it difficult. When you have a look at where every centre is located, you can even have a remote location like Oberon, which is extremely remote, but they still have people who travel there to deliver drugs. The inmates are very resourceful and they will do anything. We always seem to be five steps behind as far as contraband is concerned.

Mr DAVID SHOEBRIDGE: Going back to your knowledge of what the Minister knew, did the Minister ever approach you in 2016 or 2017 and say, "Hang on, we've got a problem at Parklea. We are getting increase notifications."?

Ms JESS: Not to me in my role as—

Mr DAVID SHOEBRIDGE: Mr Wright?

Mr WRIGHT: No: not the Community and Public Sector Union NSW [CPSU] nor the Public Service Association of NSW [PSA].

Mr DAVID SHOEBRIDGE: We now know, from answers provided by the Government, that in 2015 there were 15 notifications made to the Minister in total about contraband, excessive use of force, inmate assault and serious incidents. There were 15 in 2015. But that then surged to 36 in 2016—these are formal notifications to the Minister.

The Hon. SHAYNE MALLARD: Is this just Parklea or overall?

Mr DAVID SHOEBRIDGE: **This is about the Parklea Correctional Centre.** Then in 2017, it surges to 41 formal notifications—that means written notifications—to the Minister about contraband, excessive use of force, inmate assault and serious incidents: 41 in 2017. That is almost triple what it was in 2015. Did the Minister ever say anything to you?

Ms JESS: Nothing.

Mr WRIGHT: Nothing.

Mr DAVID SHOEBRIDGE: Do you find that surprising? If you have this crisis happening in a prison facility, do you find it surprising that the Minister does not come and talk with the stakeholders about these problems?

Mr WRIGHT: I guess that would be for the Minister to comment. We have met the Minister once in recent times about Parklea, which was not at fruitful discussion about the transition. But, certainly, there has been no contact with the Minister regarding those ongoing issues that were going in the years preceding this inquiry—not last year, but the many years preceding.

Mr DAVID SHOEBRIDGE: What about the commissioner? Did the commissioner ever make any contact?

Mr WRIGHT: No.

Mr DAVID SHOEBRIDGE: I do not know whether you are aware of some of the other surprising data that has come out in the answers from the Government, but they tell us as well that, under the contract, GEO is not required to report all disciplinary action to Correctional Services but in fact is required to report only

serious misconduct that could result in termination or the withdrawal of authorisation. That is a pretty high threshold before the notification happens.

Mr WRIGHT: Yes.

Mr DAVID SHOEBRIDGE: Were you aware that that is how high the threshold was?

Mr WRIGHT: No. We have not been privy to a contract. I have attached to that we were privy to the initial contract through some other litigation that we had initially—when Parklea was taken over in 2009. We saw the initial contract, but we have not seen any contract since. As I said my opening remarks, we consider that unacceptable that it is so shrouded in secrecy, such an important arrangement, in which the union and the employees of the centre should be considered relevant stakeholders.

Mr DAVID SHOEBRIDGE: There can be a lot going on in a prison that could be deeply troubling for how it operates that would not meet the threshold of that definition of serious misconduct that could result in termination or withdrawal of authorisation. There could be a lot going on below that threshold.

Ms JESS: It is a very large scope in between.

Mr DAVID SHOEBRIDGE: Yes. But then that we also find out that the Government was on notice about this surge of problems from Parklea through this formal notification process. Were you aware of the fact that in 2015, for example, there were a total of, I think, three investigations and three staff were disciplined following this notification, but in 2017 there were 18 investigations and 60 staff were disciplined at Parklea—in just one year—and all of them met that high threshold of serious misconduct that could result in termination or withdrawal of authorisation. Were you aware of that?

Mr WRIGHT: I was not aware of the exact numbers, but it certainly correlates with our experience. We have been heavily tied up representing members who had been disciplined and, at times, as our submission indicates, over what we would consider to be trivial matters. There appears to have been a complete turnaround in the approach at the centre, rather than a culture of not reporting things and us not hearing from them to suddenly a crackdown on the most trivial matters or potential breaches of discipline by officers and it being a reason beyond what we would consider as a level of seriousness.

Mr DAVID SHOEBRIDGE: But here we are talking about investigations not for trivial matters. We are talking about investigations that GEO believes meet the test of serious misconduct that could result in termination or withdrawal of authorisation. That is serious, is it not?

Mr WRIGHT: Our experience is that some of the matters that I suspect are described in that are not serious matters. Some of them are matters that are minor. There has been a complete reversal in the approach in the last 12 months at GEO about its staff management and staff discipline. I am not sure how many of those matters are serious and how many of those matters are not serious. I certainly have personal experience of dealing with a member who was disciplined for inappropriate emails among a staff group.

Mr DAVID SHOEBRIDGE: Do you know if that was considered serious misconduct?

Mr WRIGHT: That was treated as serious in the sense that dismissal was threatened and it was not, in our experience, something that dismissal would be threatened in either Corrective Services NSW or anywhere else in the public sector. It was what was a relatively minor matter.

Mr DAVID SHOEBRIDGE: Are you aware of any prison anywhere in the State that has had anything like 60 staff in just one calendar year facing disciplinary proceedings for serious misconduct?

Ms JESS: No.

Mr DAVID SHOEBRIDGE: How out of whack would you describe that—a little bit out of whack, sort of a bit more than normal?

Ms JESS: Extremely out of whack.

Mr DAVID SHOEBRIDGE: The Minister knows all of this, or should know. The commissioner knows that there have been 60 staff up on a serious misconduct disciplinary matter. The Minister knows that the serious incidents in the prison that have been notified to him have surged from 15 to 41 in just two years. Are you aware of what the Minister did in 2017 to respond to that?

Mr WRIGHT: Certainly nothing was done with us. I would add that we were not privy to those figures in any of those years through GEO either. As the union, we have attempted to constantly communicate through consultative committees about assaults and about contraband, but we have not been privy to any of those figures. Again, it has been a culture of secrecy.

Mr DAVID SHOEBRIDGE: One of the two private prisons in the State is having escalating disastrous problems and you are not told about it; in fact, the public is not told about it. Would that be a fair summary?

Mr WRIGHT: Yes. We would be told about it anecdotally by our members, but once we would meet with management of GEO to express our concerns, they would be dismissed and minimised or marginalised. We had no idea about the trends of the numbers that you are talking about.

Mr DAVID SHOEBRIDGE: In the same year Corrective Services put this prison out to re-contract, and despite the comprehensive value of the private prison model, it only invited other private prison operators to apply?

Mr WRIGHT: I understand GEO was invited to apply; it was just knocked out at the first stage.

Mr DAVID SHOEBRIDGE: Was the public invited to apply?

Mr WRIGHT: No, it was not and it is a question we have asked both the Minister and Commissioner Severin why.

Mr DAVID SHOEBRIDGE: The evidence is that the private model has comprehensively failed at Parklea but for ideological reasons the Government only offers the recontracting to other private operators?

Mr WRIGHT: That is correct. You may be aware that last year the John Moroney Correctional Centre was put out to tender and bids were invited both from the public sector and the private sector, including the providers who have tendered for Parklea. The public sector won that bid on its merits. It beat the private sector on all terms of reference for the contractual process. However, the public sector was not invited to bid for the tender of Parklea. We have asked both the Minister and the commissioner why that is the case. Both have considered it and said that they believe in a mixed market that it was not appropriate. They also cited that they would not have the workforce to cover Parklea Correctional Centre.

Mr DAVID SHOEBRIDGE: All the evidence I have just put to you shows that this so-called mixed market is having a disastrous impact with the private operator at Parklea.

Mr WRIGHT: We agree.

Mr DAVID SHOEBRIDGE: You and the public were not told of that at the time that the tender was limited to only other private operators?

Mr WRIGHT: That is right.

Mr DAVID SHOEBRIDGE: How do you describe that?

Mr WRIGHT: I had better choose my words carefully. I struggle to come up with an adjective that is appropriate to describe it, to be honest.

Mr DAVID SHOEBRIDGE: I would call it a bloody disgrace.

Ms JESS: It is a disgrace and it is something that if I had to work in that environment I would be very concerned about. Those staff members are placed in a very dangerous environment and so are inmates.

The Hon. LYNDA VOLTZ: Are you privy to wellness reports that are done by the department?

Mr WRIGHT: No, we are not.

The Hon. LYNDA VOLTZ: Will you explain the process for a wellness report?

Mr WRIGHT: We have learnt more through this Committee and the submission made by Corrective Services NSW than we have in other ways about their wellness reports and what their alleged monitoring of the contract is. We were not aware of the wellness reports. We have never seen one. We do not know how they are made. I can only report in regard to what you mentioned earlier about that surge of interest from Corrective Services NSW. A number of people were inserted in the centre to monitor what was going on on-the-ground. Several of our members reported, and I believe it is in our submission—I am not sure if I included that—that they felt nothing but relief. Once Corrective Services came in they felt the standards improved and they felt an absolute relief that suddenly somebody was watching what was going on.

The Hon. LYNDA VOLTZ: But those Corrective Services officers were actually put in in 2016. Is that right?

Mr WRIGHT: Yes, that would be 2016, so before the issues occurred last year.

The Hon. LYNDA VOLTZ: The issues went back to 2016?

Mr WRIGHT: Yes.

Mr DAVID SHOEBRIDGE: Just to correct you, that is what I had been led to believe from certain material. In answers to questions on notice about monitors, the Government has made it very clear that through all of 2011 to 2016 there was only one monitor in place and that the monitors only increased to three in 2017.

Mr WRIGHT: Okay.

Mr DAVID SHOEBRIDGE: Despite what was happening in 2016 with a surge of serious misconduct issues and investigations, only one monitor was there until they moved to three in 2017.

The Hon. LYNDA VOLTZ: That confusion may be because the Commissioner said that in 2016 there had been reports, so I just assumed that is when they were installed. Do you know how many monitors are in the other private jails?

Ms JESS: We do not get that information.

The Hon. SHAOQUETT MOSELMANE: I refer to Parklea Correctional Centre where you said there was a significant staffing crisis. Will you elaborate on that?

Mr WRIGHT: I think that has been the concentration of our report to not look at just what issues have occurred but why they have occurred. For us it is almost sequential. There has been a very high turnover. Recruitment at the centre has been very high. The figure indicated by one of our officers or one of our members is that 80 per cent of the staff there have less than two years' experience. They have enormous problems with attraction and particularly retention. People tend to approach the place—they were for a number of years engaged casually and would leave either to Corrective Services NSW and a lot of them are now leaving for Serco which runs immigration detention centres. We have had enormous issues with retention.

We would have to go back a step as to why those issues of retention exist. From our perspective, and we think the anecdotes in that story adequately indicate, the issues are twofold. First, the level of remuneration in the terms and conditions of employment are not competitive. Secondly, and it is more of a concern for me and I think it should be a concern for everyone, the other major reason the centre has problems with retention of staff is the inherent danger of the work. People do not feel safe there. I can report that several of the people I interviewed for that report got tearful when talking about how they felt about their work. They go there every day and feel fearful because of staffing levels.

What then you have is an ongoing snowballing effect that they cannot retain staff; that shifts are left empty, that those staff are there feel increasingly fearful and increasingly overworked. This goes on and on and on and that has been the practice at that centre for many years. We have tried through enterprise bargaining repeatedly, on at least two occasions, to address those issues: to set safe staffing levels, to improve terms and conditions of employment so that people felt safe, to put in place processes where we could monitor the safety and have an ongoing engagement and involvement with the provider to try to work on that in a tripartite fashion. It has been rebuffed. GEO took our interest in the safety of our members almost as an insult that they were not going into. I can assure you out of those anecdotes and many others that I have heard over many, many years that the differences between GEO's attitude to safety and our members' attitude to safety is stark.

The Hon. SHAOQUETT MOSELMANE: What was the Government's attitude to what you have just described?

Mr WRIGHT: We have not had ongoing consultation or engagement with the Government about Parklea at all. It has only been at this tendering process that we have met with both Commissioner Severin and Minister Elliott and that was specifically in relation to what is happening to staff right now with their futures in the air and the uncertainty about their ongoing employment. That has been our sole engagement with the Minister about Parklea. I believe any other inquiries we would have made of Corrective Services or the Minister about Parklea would have been referred back to GEO.

Mr DAVID SHOEBRIDGE: Can we quickly address benchmarking?

Mr WRIGHT: Yes please.

Mr DAVID SHOEBRIDGE: A number of people have approached me with concerns that benchmarking is actually lowering standards in public prisons and becoming a tick-a-box process and actually dumbing down the kind of interactions between Corrective Services staff and inmates. That is a summary of the concerns that have been raised with me. What is your opinion of the benchmarking process?

Mr WRIGHT: I might start and Nicole could give more details about on-the-ground issues. I have said in our submission we consider benchmarking purely sophistry. It is a term for job cuts, and that is all it is.

Benchmarking makes it sound like something that is an academic process and is quite rigorous. It is not. What we are seeing at a time—and Commissioner Severin said it in evidence earlier and it is known to the Committee—when our State's correctional population has increased by 50 per cent in four years, to respond to that increase in demand with job cuts is ridiculous and it is negligent.

The benchmarking process itself has been ridiculous. It is compared to—and we have talked about this in our submission and it is one of our recommendations that we hope the Committee will act upon—we have been referred to continually a consultant's report, the Macksam report. That has been used as the benchmark, the line against which centres have been used, although the Commissioner now says that they have toyed and tweaked with that and it is not actually accurate. That report has never been provided to us. We have never ever seen it. Despite repeated appearances in the Industrial Relations Commission and elsewhere requesting it, we have never been provided with it. We do not know what is in it.

If I were to use a modern-day cultural reference, it would be like a show my daughter is addicted to, the *American Ninja Warrior*, competing in that without knowing what time you are to beat, who set the time and if they set that time at all. We have no idea what our centres are being compared against and why they are being compared. Has that been a reasonable comparison? Has that comparison been properly made? That is our major concern from the outset of benchmarking. It should be transparent, and for us to participate in it we need it to be transparent.

Mr DAVID SHOEBRIDGE: We know from answers from the commissioner that it was a desktop review and that they never went out to the prisons. They just got data off payroll, roster sheets, et cetera. That was it. We also know that the total cost of that review was some \$86,150 and, given consultants charge like wounded bulls, that is probably a cover sheet and one table.

Ms JESS: Yes. So far we have done our very last centre where the numbers have been produced to the Metropolitan Remand and Reception Centre [MRRC], which is the last centre to be benchmarked. If those numbers are not changed that have been presented to us, that will equate to 378.3 staff taken out of Corrective Services. The majority of those staff are 10 years and above. One whole rank has been taken out, which is the assistant superintendent rank. When you take that knowledge and skillset out of a correctional centre you cannot replace it. If an incident happens, they are the people with that knowledge, that skillset, that respond and make sure everyone goes home to their family and that inmates go into their cells safely.

Mr DAVID SHOEBRIDGE: Is that 378 across the State?

Ms JESS: Across the State.

Mr DAVID SHOEBRIDGE: What proportion of the workforce are we talking about?

Ms JESS: That is probably 10 per cent. That is an extremely high number; it is the highest job cuts that we have ever had in Corrective Services. Under The Way Forward we had around 270. Take, for example, the MRRC, when you take out 71—that is the total number of staff that they want to take out of there, which equates to approximately 30 posts—that is 30 posts that will not be filled. So one day they are going to have that staff; the next day, under the implementation of benchmarking, those 30 posts are gone. That centre has had an increase of use of force of 33 per cent in the last three years, 147 in assaults on inmates and 108 on contraband detected. The POVB and the PSA have never shied away from any sort of reform that is going to benefit the staff of Corrective Services. We would be happy to sit down and do key performance indicators [KPIs]; we would be happy to streamline any standard that we have. However, when you take away staff and you have job cuts it is unsafe.

Mr DAVID SHOEBRIDGE: Which prisons has the benchmarking process recommended should have additional staff? I assume that the neutral assumption would be that they are kind of mid-level—some would have more and some would have less. Where are the prisons getting a whole 70 additional staff?

Ms JESS: There are not. Corrective Services like to come in and do a bit of smoke and mirrors. With the MRRC they are saying they are taking away 71, but "with the new build we are going to give you that 71". What we are saying is that is all well and good for that new build, but you cannot take the 71 out of the current structure that we have already got; you are going to make this centre unsafe. As far as growth in some centres, it is the majority of smaller centres that have had some growth, and those centres have needed that growth. But in total, as I said, 378 taken out.

The Hon. LYNDA VOLTZ: The gross being where their bed capacity has increased.

Ms JESS: Not necessarily the bed capacity. To be able to achieve some of the key performance indicators that they need to do there needs to be growth. That growth has happened in the smaller centres in majority in the managerial level.

Mr DAVID SHOEBRIDGE: So the benchmarking has given more managers.

Ms JESS: More functional managers.

Mr DAVID SHOEBRIDGE: More managers, less staff.

Ms JESS: More functional managers.

Mr DAVID SHOEBRIDGE: The KPIs and the benchmarking process, did the Government sit down with you and work your way through the KPIs and explain why they have been arrived at?

Ms JESS: No.

Mr WRIGHT: No.

Ms JESS: We raised with the Minister on one occasion the KPIs. One of the KPIs was that if you found contraband you could only find a certain amount and then there would be ramifications for that. We said that should be the reverse; you should have it where the more you find the better it is.

Mr DAVID SHOEBRIDGE: A perverse incentive otherwise.

Ms JESS: Yes.

Mr DAVID SHOEBRIDGE: You would walk around with your eyes shut to meet the KPI.

Ms JESS: Yes. We have raised concerns that some of the KPIs are going to impact on the fact that certain incidences may not be reported. We still have to work through some of the centres—for example, the MRRC, there is a performance indicator that if an inmate comes into custody and within the first two weeks they self-harm, you get 0.25, and all you can reach is 20 points. So that is 80 occasions within a year for MRRC. That is an unreasonable amount, we feel, for that centre; they will never be able to reach that KPI, they will go way over that. When you have inmates coming in with mental health issues, who are under ice and so forth, those inmates are self-harming on a regular basis.

Mr DAVID SHOEBRIDGE: Do you believe there are sufficient facilities in Corrective Services to deal with some of the longstanding mental health issues that inmates present with?

Ms JESS: No. We have a crisis at present with mental health and disabilities. I am also concerned what effect the rollout of the National Disability Insurance Scheme [NDIS] is going to have and the privatisation as far as anyone that has—and I have raised this with Corrective Services, what are their future plans—a mental health issue and is aggressive. The private sector is not going to look after them and they come to us. We are not adequately resourced to be able to manage them. Training needs to improve in that area. For example, in the centre that I work in we have at times a waiting list of 13 people in with the normal population of inmates waiting to go into mental health units; there is not enough.

Mr DAVID SHOEBRIDGE: In your experience, Mr Wright or Ms Jess, has the proportion of inmates who have got identifiable mental health issues remained stable or has it increased, or is there just greater awareness of it?

Ms JESS: I believe it has increased, and I think that is to do with the ice epidemic; that is having a dramatic effect on inmates as they come in and also when they are in. If contraband comes in I have seen inmates that have been perfectly fine and then all of a sudden they take a shot whilst they are in custody and then they are under a psychosis, and sometimes they do not come out of it.

Mr DAVID SHOEBRIDGE: Mr Wright?

Mr WRIGHT: I would agree with Ms Jess. The complexity of the inmates, particularly upon reception, particularly when they first enter custody, has increased exponentially, and this ties in again with one of the issues at Parklea, that it changed its population. Corrective Services NSW said it asked. I would love to know whether it is sorted, whether it was a more profitable market to be in. But once it moved from sentenced inmates to remand inmates to fresh custody inmates that is the exact time line of the deterioration of standards at Parklea because those demands, both on Parklea and any correctional centre in the State, fresh custodies of people coming in off the street with undiagnosed mental health issues, potential developmental disabilities, drug addiction and all of those things upon reception, are enormous. That is an enormous pressure. As well as the sheer increase in numbers of prisoners in the system, the complexity of those people coming into custody has increased.

Mr DAVID SHOEBRIDGE: Finally, in your experience, are there anything like adequate resources to deal with the mental health and addiction issues of inmates as they first enter the system and, if not, do you want to either respond now or on notice about what kind of resources are required?

Ms JESS: I do not believe that we are adequately resourced. For example, you have an inmate out in the community at the present moment, they come into custody; when they are out in the community they are not taking their medication for mental health issues and whatever and they are subsidising that with drugs. When they come into custody they need to be medicated basically straightaway. We do not have enough psychologists, we do not have enough psychiatrists, we do not have enough mental health to be able to manage them. It takes two to three weeks sometimes to be able to get those inmates adequately medicated, and in that two to three weeks they are slowly and slowly progressively getting worse and we have to deal with it. That is not the increase in the use of force, that is the increase in assaults on staff and assaults on inmates.

The Hon. SHAOQUETT MOSELMANE: One quick follow-up on the mental health issues of inmates. Yesterday we went to Cessnock and we went to the pop-up prison and we were told that in the way that the prison is operating their system ensures that there is minimal mental health impact on inmates. Do you have any view on this?

Ms JESS: I would say that inmates that are going through acute mental health or through a medium mental health, they are not going to be in rapid builds. Initially the rapid builds—Hunter is being filled with Special Management Area Placement [SMAP] inmates, which are protection inmates; they are known to be easier to manage. So we have had no real issues coming out of the Hunter. Macquarie, the initial inmates that went there were handpicked. So it is going to take a little bit of time to see how that runs when the classification process happens and you cannot handpick the inmates. We have had one incident there. But, again, I have been to those centres and if you do have someone that has mental health, you have very few cells to be able to hold them and manage them appropriately. We have raised with the department that there are what we class as safe cells, camera cells, to be able to hold them and make sure there are no hanging points. We do not have those resources.

The Hon. SCOTT FARLOW: Can you explain what the union's part in the benchmarking process has looked like?

Ms JESS: When I was elected as chairperson we sort of took a stronger stance on benchmarking. Benchmarking by stealth by the department is where we are cutting our own throats effectively because we have to assist in the risk assessments on each position. We took that to the Industrial Relations Commission [IRC]. We asked for some interaction where they would be able to help us with it but, unfortunately, we were not successful. So we have had to go along and by stealth cut our own throats in these positions. We have been able to claw back a few positions in some centres by giving evidence to say that those positions are required and we have had numerous meetings with the department to raise our concerns about stuff.

The Hon. SCOTT FARLOW: With respect to that process and those meetings, has there been a consultation process, for instance, where a draft set of key performance indicator [KPI] benchmarks has been presented to you?

Ms JESS: Yes.

The Hon. SCOTT FARLOW: And then you then have a formal feedback process into that?

Ms JESS: We have had no feedback—well, the KPIs have been given to us but the only change that we have had is in regards to how the contraband was going to be dealt with.

The Hon. SCOTT FARLOW: Was that change achieved by presenting your case to the Commissioner and then changes were made or—

Ms JESS: Both to the Commissioner and to the Minister.

The Hon. SCOTT FARLOW: Have those benchmarks now been finalised or is there still further input for consideration?

Ms JESS: I am unsure—I think they are getting close to final. I would say they are finalised because we have actually got centres that are actually running under them now. So they would be finalised.

The Hon. SCOTT FARLOW: You said there was one—the Metropolitan Remand and Reception Centre [MRRC] I think—

Ms JESS: The MRCC only just got their benchmarking figures last week. We still have Goulburn that is in the initial phase and Long Bay is about to go into their third phase of implementation.

The Hon. SCOTT FARLOW: How dynamic is the benchmarking once they are implemented? Are they set in stone or do your members have the ability to give input about any amendments they think should occur to those benchmarks?

Ms JESS: No, they are set in stone now.

The Hon. SCOTT FARLOW: When you are talking about the phases: first stage, second stage and third stage—

Ms JESS: You have got your first phase, which is where the department presents you with the numbers. You then have the second phase, which is once those numbers have been signed off by the Commissioner, you go into where you make sure if there is any equipment that needs to be installed, any technology, if you have got post duties that need to be revised—the purposeful day. So you have got that period to do that and then you go into the implementation phase where you lose the staff and you go into the actual implementation.

The Hon. SCOTT FARLOW: Mr Wright, you made commentary on Parklea and private prison operators. Junee is also another private correctional centre that has not seen the same instances as Parklea. What has been your experience of operating with Junee in comparison to Parklea? Has that been better at all?

Mr WRIGHT: Due to a 1995 national demarcation, Junee is the one correctional centre in this State that our union does not have any involvement with. It is covered by another union: United Voice, which is formerly the Miscellaneous Workers Union. I would say respectfully without firsthand knowledge that I cannot see how the issues that GEO has had in managing Parklea would not have been repeated at Junee. There is one crucial difference I will grant with respect to Junee as a private prison—that is, it is in a regional area and people tend to get a job there and stay there, whereas at Parklea it is in Western Sydney and one of their issues with retention is that there are other jobs for people to move to. When people stay at a job, as you know, they are invested in it, they care about it and they do different things. I would go back to my initial point though about the culture of secrecy around the contractual arrangements, about the reporting arrangements. Based on our experience as a union not being consulted about the issues at Parklea, I would wonder very much if the silence coming out of Junee is a real silence or if there are actually issues bubbling away under the surface as well.

The Hon. SCOTT FARLOW: I think you mentioned in the assessment of all the correctional centres that with Junee the reporting lines are the same as the government-run facilities. What does the reporting lines being the same as government-run facilities in comparison to Parklea mean?

Mr WRIGHT: I am sorry, did I say that—

The Hon. SCOTT FARLOW: I think it is on page 58 of your submission with respect to Junee Correctional Centre.

Mr WRIGHT: Yes. That is the issue we alluded to earlier. There is a system that is shared right across correctional centres called [Offender Information Management System] OIMS. That is a record. So if you are in custody and there is a record about your classification level, the interactions you have had, your disciplinary matters and things like that, that is shared across the system.

The Hon. SCOTT FARLOW: So Junee is part of that system.

Mr WRIGHT: Including Junee. Parklea—there is a module on that called the [Incident Reporting Module] IRM. So if you assault another inmate, if you are caught with something, if there are suspicions about your associations, if there are concerns about your behaviour, an officer enters an IRM. It is an issue. They say, "Okay, we have identified an issue. There has been an incident in regard to that inmate." Those IRMs are shared by every correctional centre in the State bar Parklea—it is shared by Junee. They are silent, they are secretive, but an officer at Parklea can look up an IRM on other inmates that have just come in from other jails. So they should. It gives an officer an understanding—namely, this fellow has had issues at that centre and at that centre in regard to this, we will keep an eye on it. However, the issues that have occurred at Parklea that have warranted an IRM are not shared with the public sector, they are not shared with the other jails. That is the culture of secrecy or part of the culture of secrecy around Parklea that has been allowed to promulgate.

The Hon. SCOTT FARLOW: Has that been the case since the contract was first entered into in—

Mr WRIGHT: I understand, yes.

The Hon. SHAYNE MALLARD: If an inmate is transferred from Parklea to another part of the correctional system that information would then travel with them, would it not?

Ms JESS: No.

Mr WRIGHT: No. It stays in the system somewhere in a corner, tucked away for only Parklea to see.

The Hon. SHAYNE MALLARD: That is unusual.

Mr WRIGHT: It is unusual.

Mr DAVID SHOEBRIDGE: It sounds bad.

Mr WRIGHT: It is potentially horrifically dangerous if I can add.

The Hon. SHAYNE MALLARD: Obviously we will need some more information on that. I want to go back to the unionisation of the workforce. How many employees are there, including private jails, in the correctional centres in New South Wales and what percentage are members of your union?

Mr WRIGHT: We might need to take on notice the exact number. I know we have more than 5,000 members employed in Corrective Services NSW. The split of that as to how many correctional officers and how many are at each I could not do off the top of my head. We are happy to provide that.

The Hon. SHAYNE MALLARD: And Parklea?

Mr WRIGHT: Parklea varies. I think at the last look I had we had about 60 members of the 130-odd correctional officers.

The Hon. DAVID CLARKE: Ms Jess, on the issue of benchmarking you said that when you have given evidence of a need to retain a position, to claim it back, you have indeed been able to claw it back. The department has responded when you have put the evidence forward. That is basically what you said, is it not?

Ms JESS: On some occasions, yes, we have been able to claw some posts back but on other occasions we have been unsuccessful.

The Hon. DAVID CLARKE: You actually said, "When we have given evidence for the need to claim these positions back we have been able to have them clawed back." You did not say in some instances and in other instances you have failed.

Ms JESS: Say, for example, at Long Bay Correctional Centre. From the whole complex they were taking I think it was 111 or 100 and something staff out of that complex and we were able to claw back some. We wanted more but we were unsuccessful in obtaining the rest. There is a review process we are told, and after that review process, after the implementation phase, we may look at it again. We had that review process at Nowra and we believed that we needed more. We were unsuccessful in getting more.

The Hon. DAVID CLARKE: So in other words when you said earlier that when you put this evidence forward you were able to claim them back you were overstating the position? That is actually not what you really meant when you said that a few minutes ago? You really meant that you only claimed some of them back.

Ms JESS: That is correct.

The Hon. DAVID CLARKE: That is an assessment of your evidence.

Ms JESS: Yes.

The Hon. DAVID CLARKE: So you are now saying, in contradiction to what you said earlier, that there are situations where you have put forward a claim or given evidence to claim a position back and you have been unsuccessful. You are now saying that is the situation.

Ms JESS: When I first commented, I probably left some information out. What I am saying is that, in fact, at times we have asked for positions and we have been unsuccessful and at times we have asked for some and we have been successful.

Mr DAVID SHOEBRIDGE: Ms Jess, could you give some further details on notice?

Ms JESS: Yes.

The Hon. DAVID CLARKE: I am coming to that. You certainly did leave some information out. You are now giving a completely different scenario to what you gave a few minutes ago.

Mr DAVID SHOEBRIDGE: Point of order: I think that is unfair to the witness. The witness has not given completely different evidence. She is giving further details now. I would ask the member to be fair to the witness and not put words in her mouth.

The Hon. DAVID CLARKE: I was about to go on to reflect the accurate position that you have now given. I ask that you give specific examples to us—you can take it on notice—of where you have, in a specific situation, put forward information seeking to claw back a position and you have failed in doing so. You can give us specific examples of that.

Ms JESS: Yes.

Mr DAVID SHOEBRIDGE: I have one question about vocational positions—the change that was highly contested in 2016 to vocational education. How has that played out?

Mr WRIGHT: I might need to take that on notice. Obviously you are aware that at that time there was a tender put out for educational services. The teachers that were engaged by Corrective Services NSW directly to teach inmates were reclassified into generic education officer roles, whose jobs were off class and assessing and developing programs, I understand. I believe, from recollection, a Queensland TAFE provider won the contract to do the teaching. I do not know whether that has continued or not. I heard rumours. Ms Jess, are you able to fill us in on this?

Ms JESS: I do not have a lot of information. We can get it on notice.

Mr WRIGHT: We will take that on notice. Apologies.

The CHAIR: Thank you very much for coming. I note that you have taken a question on notice. The Committee has resolved that answers to questions taken on notice be returned within 21 days. The secretariat will contact you in relation to the question that you have taken on notice. Thank you very much for coming today.

(The witnesses withdrew)

VANESSA ABDALLAH, Assistant Coordinator, Justice Action, sworn and examined

JAMES WATSON, Assistant Coordinator, Justice Action, affirmed and examined

JAMES HALL, Assistant Coordinator, Justice Action, affirmed and examined

BRETT COLLINS, Coordinator, Justice Action, affirmed and examined

The CHAIR: I welcome our witnesses. Would someone like to make a short opening statement?

Mr COLLINS: First of all I would like to hand up documents that were sent by email. I am told that we should give you a copy of each of those.

The CHAIR: Are there multiple copies? We already have them.

Mr COLLINS: I will just identify the documents. There is the "Rapid Build Dormitory Prisons: An Unacceptable Pressure Cooker" document, which is badged with the Community Justice Coalition. That is a document we adopt. There is the report from the visit to the Hunter Correctional Centre. I, as Justice Action Coordinator participated in that visit. There is also a report from prisoners at Hunter Correctional Centre dated 29 June. Fourthly, there is a document from Corrective Services NSW dated 27 July, addressed to the Community Justice Coalition in response to the other two reports.

The CHAIR: Thank you.

Mr COLLINS: I will first introduce our team. There are five members in our team. The fifth member unfortunately is not here at the moment. It is possible he may still arrive. He is an ex-prisoner who was, for a significant period, left at Parklea jail, so he speaks with the grounded experience of being in Parklea jail. He has left me with some information that I am happy to impart to the Committee. Justice Action represents people inside locked prisons and hospitals. It tracks its history back to the beginning of the penal colony as part of the prisoner movement. We listen to people in prison and their families, so we have constant contact through letters, phone calls and emails from families. We represent, in the longer term, the views of prisoners. Quite often there are short-term benefits for prisoners at certain times and there is the longer-term interests of the prisoner movement. We take the longer-term interests when there is a distinction.

On the issue of privatisation, James Hall will be developing arguments on that. We reject privatisation as something that, in the long term, is against the interests of prisoners and the community generally. The dormitory prison is something which I will address for a few minutes. We first became aware of this towards the middle of last year and then became aware of what implications it had for people living in there. It was not apparent when it was first presented. We had no consultation. There had been no discussion with us whatsoever. When we became aware that 25 maximum security people were to be held in one room together for the first time, then we understood what the implications were.

At that stage we talked to serving prisoners and ex-prisoners and came to a definite conclusion that this was against the interests of people inside those dormitories. We then began a series of questions, establishing what were the costs for the Government, what were the motivations for building it in the way it was and discovered that the cost was almost half a million dollars per person inside the dormitory, which is equivalent to a unit at the Central Coast and, we were told by the Assistant Commissioner Luke Grant, equivalent to the cost of constructing a normal prison. At that stage, we intervened and felt we should have a proper discussion and consultation with the Government.

We accompanied the Community Justice Coalition to a meeting with the assistant commissioner and commissioner regarding the matter and then we were invited to inspect the Cessnock dormitory prison, the Hunter dormitory person and went in there for four hours and spoke with prisoners there and inspected the premises and had a chance to see how people were living in those dormitories. We had no doubt whatever that it was an unacceptable living area. The way it had been organised was such that people were able to hear each other snore while they were asleep. A common complaint was snoring. They knew who was the worst snorer and there is a long history of snoring causing an issue inside cells.

Mr HALL: If I may interrupt quickly, there is also evidence from the United States and overseas. It is noted on pages 4 to 5 of submission 17. They have detailed studies about similar noise complaints, overcrowding, which really prevents any services intended to provide education or rehabilitation for prisoners. They also promote violence and high depth rates and those kinds of things. There are studies and academic literature which are also consistent with our findings.

Mr COLLINS: To bring a very fine point to this, there is the remarkable situation of a man called Ian Klum in Grafton who was battered in a cell because he annoyed his cellmate because of his snoring. That was the basis of a significant inquest at a later stage. That is exactly the sort of situation with which we are confronted in these dormitory prisons. We look to the Committee for a condemnation of the dormitories. We would like to be involved and to involve prisoners and staff in a reconstruction of the area in a way that makes it possible for them to develop personally and to feel safe and to have the privacy they would normally have in a normal prison. I will now pass over to Mr James Hall.

Mr HALL: Thanks for the opportunity to appear and give evidence. I will primarily be addressing term of reference (f) about the appropriateness and operation of our prisons in New South Wales. Our research suggests there are two main claims made by those who argue for the privatisation of prisons. The first is that prioritising prisons will reduce costs for the Government and the second is that the privately run prisons will perform just as well or perhaps better than their government-run equivalents. We argue that both of these claims are not supported by any good publicly available evidence and that until that evidence is provided it is inappropriate for prisons to be privatised and they should be run by the Government. At the very least, in the meantime, there should be more information disclosed by these private prisons so that their performance can be properly assessed and so that they can be publicly accountable.

I will begin with the first of those claims that privatising prisons will reduce costs for the Government. Our research suggests that there are three main pieces of literature that have been used in public debate to justify this claim. I will explain the flaws in the statistics of each of those documents in turn. The first of those was the report commissioned by the Government prior to the opening of Junee prison in 1993. Common criticisms of the statistics were that no information was given about how figures of reduced costs were calculated and these issues were also raised in parliamentary debate at the time.

The second of these reports is the New South Wales Public Accounts Committee report in 2005. The report did not disclose its method for calculating overheads, and that rendered the final cost figure ambiguous and allows no meaningful comparison with government-run prisons. The last of these reports is the General Purpose Standing Committee No. 3 final report from the Legislative Council in 2009. The calculation has been criticised to not adequately take into account factors unique to each prison, such as the age of the prison, the design of the prison and the geographical location. Since then, there continues to be almost no publicly available evidence for the claim that these private prisons are more cost effective.

Let us look at two possible candidates for that evidence. One is the contracts for Junee and Parklea prisons. As you will be well aware from the May hearing, although those contracts are publicly available they are heavily redacted and exclude really important information about costs and other performance measures. Further, this information is likely protected from being obtained by the freedom of information requests because of New South Wales commercial-in-confidence legislation, as you know. The only other publicly available figures that we have been able to identify about the costs of running Junee and Parklea are to be found in the Corrective Services annual report of 2010-11 and the NSW Treasury budget figures for that year.

However, these figures are only available for that year and not other years, and there is no breakdown of the figures provided in those reports about how it relates to levels of occupancy or performance for each prison; they are considered together. Despite this lack of publicly available evidence, continually we have heard justification for privatised prisons on the basis that they are more effective. In the May hearing, GEO Group and Corrective Services NSW made these claims. I can direct you to the numbers of the transcripts, if needed.

I will move on to the second claim now that privately run prisons perform as well or better than, possibly, publicly run prisons in various ways such as safety, security, rehabilitation. We deny that claim. Two of the reports I mentioned earlier, the Public Accounts Committee report of 2005 and the General Standing Committee No. 3 report of 2009 both make these claims, but we deny them. I have identified seven different mechanisms available for measuring performance of private prisons that could be a great way to get public accountability. However, not one of these measures, in our view, provide good evidence for this claim.

The CHAIR: Can I interrupt you. The idea of you making an address was that it was supposed to be short so that we have a chance to ask questions. If you keep going like this, you will chew up all your time and we will not get a chance to ask you any questions.

Mr HALL: I understand. I have quite a lot of material, but I will move through it more quickly.

The Hon. LYNDIA VOLTZ: You can table it if you like.

The CHAIR: Table your documents if you want to.

The Hon. LYNDIA VOLTZ: We can publish it as part of the Committee proceedings.

Mr DAVID SHOEBRIDGE: Maybe summarise the points, draw the conclusion and table that document, then we can get to the questions.

Mr HALL: I will summarise the main points and we will consider tabling it. The Corrective Services NSW annual reports, for many years, are simply unavailable to the public. They contain a small amount of information. The criteria used to assess performance is inconsistent over time. There is no justification for withholding or awarding the performance-linked fee. Another mechanism for accountability is the on-site monitors. As we heard earlier today, historically they have not been on site. We do not know currently whether they are on site or if there is one monitor for multiple prisons. At the moment, I can make similar criticisms of the New South Wales Audit Office reports, the annual reports of the NSW Ombudsman, the reports of the independent Inspector of Custodial Services, and various other mechanisms that I can detail, if needed. I can stop there if you prefer to ask questions.

The CHAIR: You can table the document.

Mr HALL: It is not in formal prose. It is my own notes.

The CHAIR: That is fine.

Mr COLLINS: I would like if possible to add some comments that were intended to be offered from David Johnson. He is the ex-prisoner who was in Parklea. He was a member of the Inmate Development Committee at Parklea and during his period there he heard a bashing of a prisoner upstairs by a number of prisoners. He said it took over 30 minutes for them to open up the cell doors to allow sufficient staff to get in there to investigate what was happening to intervene. The following morning as a member of the Inmate Development Committee he then asked what has happened to that prisoner. He was told that it was a privacy matter and he never heard the result. That was a significant issue, having insufficient staff to ensure the safety of prisoners, having only one staff member at the time.

The other statement he had was on behalf of prisoners he went to the overseer to remonstrate with him. On a mug on the overseer's desk it had, "Tell someone who gives a shit". That was the attitude of the staff of Parklea to him as a member of the Inmate Development Committee. That is never something that I would ever have seen in a public jail. That is not to say it would not have occurred, but it certainly was what was occurring in Parklea and there was nothing in the administration that prevented that from occurring. Certainly there is no issue of accountability by other members of staff.

The Hon. SHAOQUETT MOSELMANE: Regarding the bashing at Parklea, where one of your members said it took 13 minutes—

Mr COLLINS: We heard 30 minutes.

The Hon. SHAOQUETT MOSELMANE: Thirty minutes or 13?

Mr COLLINS: Thirty minutes, three zero.

The Hon. SHAOQUETT MOSELMANE: This was one of the arguments that the Committee heard yesterday at the pop-up prison in the Hunter, that it is designed in a way that it allows the officers to get to the inmates within a much shorter period than would otherwise be if inmates were in individual cells. What is your response to that?

Mr COLLINS: The reality is that you have 24 other people around you at any one time. You could very easily shield someone else whilst they were being bashed, or you could stab someone under the cover of somebody else. If you have, I think they said, 17 cameras overhead, you could definitely conceal an assault. Then it becomes it could have been any one of those 24 other prisoners who had caused the damage. I do not think there is any suggestion that you are safer inside a dormitory prison. I think that is an outrageous idea. You are less likely to be safe. I could imagine not feeling comfortable about going to sleep at all when you knew that an opposing gang member looked at you in a wrong way. You would have trouble sleeping easy in that situation.

The Hon. SHAOQUETT MOSELMANE: This pop-up prison has been there for a year.

Mr COLLINS: Six months.

Mr DAVID SHOEBRIDGE: It has only been seriously operating since March.

The Hon. SHAOQUETT MOSELMANE: Do you have any statistics that support that argument?

Mr COLLINS: What we do have is we know that there are only minimum security prisoners there at the moment. They selected minimum security prisoners. They are the ones that are trying it out. The statistics

we saw in fact were that there were some rising assaults occurring in the last month or so. We do not doubt at all those people settle in and they recognise that they have to put up with one another, there will be some negotiation. But there is no question having more people together in an area when there is no privacy means that the psychological effects will fault over a long period. If you were serving a sentence of a number of years, to not have any place of privacy—possibly the toilet—where you can sit for any period of time and do your own personal study or not have somebody interfering or hearing somebody cough or snoring, that will have a deleterious psychological effect. We would urge on the Committee a reconstruction of the area and to take into account both staff and prisoners' concerns.

Mr HALL: If it is related I am happy to provide on notice a reference to an article that explains that personal interaction between prison officers and the prisoners instead of surveillance from above is more beneficial to those prisoners.

The Hon. SHAOQUETT MOSELMANE: We would be happy to have it. The core of your submission is that you are against privatisation.

Mr HALL: That is right.

The Hon. SHAOQUETT MOSELMANE: And that private operators are not as good as public operators. Can you give us anything that you see that the private sector can deliver better than the public sector, anything unique?

Mr COLLINS: Maybe I can respond to that. To be fair, there is a bit of a history in this issue. We were told continuously that in Junee, the fact that they had kitchens there where they were cooking for themselves was a big improvement on the cook-chill system based in Silverwater. Understandably so. It is obvious that it is a real mistake not to have kitchens as the women have at Mulawa. I do not know whether they still do have, but they certainly had an ability for them to cook for each other and to cook with stoves as teams together. That is an obvious way of personal development, community development, a chance to learn good skills and that is lost in the large cook-chill spaces. Junee had something better going there. We are not against innovation but innovation can just as equally come from the public presence.

Mr HALL: I would also perhaps not characterise my argument as strongly as you put it, and put it weaker that there is no evidence and proper accountability to support findings either way. Of the evidence that is available I think things like Junee and Parklea consistently having the highest number of complaints from inmates to the NSW Ombudsman requires further investigation, but I would not go so far as to say there is clear evidence either way. I am calling for greater accountability before we justify privatisation on these claims. Picking up on the point of innovation, if that is to be a benefit then it might be a good idea I would suggest that the contracts for Junee and Parklea should specifically require some performance measures of innovation and various technologies they bring in. Currently, as we understand it, that is not the case. They do not contain specific provisions.

Mr DAVID SHOEBRIDGE: There is no evidence we have of cross-fertilisation of good ideas from the private system to the public system. Indeed, all the evidence I have seen so far in this inquiry would suggest that the good ideas are mainly being generated in the public system rather than private system. Are you aware of any specific instances where good ideas were generated in Parklea or Junee and have then cross-fertilised to the public system?

Mr COLLINS: There is also an underlying issue here and it is one that is very significant. Prisoners do not want to be in jail but when their status is to be controlled by an international company, the whole question of that and having reached an agreement in public with the State is put aside. They feel as though they are just a commodity, it is just a commercial transaction. That is really significant. People talk in terms of feeling like slaves, that GEO or Serco just transfers them as it feels like doing and it degrades the responsibility that prisoners feel towards the State.

The Hon. LYNDA VOLTZ: It gets back to the fundamental argument, that the State has a monopoly on the use of force and whether that monopoly should be executed by the private sector, as opposed to the public sector, which is answerable to the Parliament.

Mr DAVID SHOEBRIDGE: Contracted out for profit.

Mr COLLINS: Yes, I can see that but it is a question of how you see yourself as being controlled. A public prison has a whole different—there is an ethos there where you feel as though you are responsible to the public. To be just a commodity is something different. Also, there is a reduction of costs that you see happening in the private company. We have had reports continuously about the meanness with access to soap and toilet paper. Those complaints have happened for years. It was Parklea where they were putting three people inside a

two-person cell. First of all, we had a petition from 110 prisoners who complained that they suddenly had been moved from a two-person cell to a three-person cell.

The Hon. LYNDA VOLTZ: Can we go back to those arguments with the pop-up prisons and the Hunter Correctional Facility. If we get evidence indicating a reduction in assaults on inmates in the dormitory style because of the nature of the design, would that, rather than having two of your inmates in a cell, satisfy you? You have already highlighted the problems in Parklea where it took 30 minutes to get to a cell.

Mr COLLINS: In no way at all. It is degrading of the entitlement to privacy. It is one thing for a person to be locked up in an area with two or three people with whom they can negotiate, but at least they can communicate with one another and move around as they want. In the dormitory cell, there are 25 people together.

The Hon. LYNDA VOLTZ: We were there yesterday, so we have seen it.

Mr COLLINS: We are assured all the time by prisoners that they are horrified by them. Nobody wanted to live in that situation. There are many goodies given at this moment and we saw that there was a television console with access to a limited number of things, but no keyboard. We were told that at some stage there would also be computers that cells would have full access to.

Mr DAVID SHOEBRIDGE: We were told that yesterday too.

Mr COLLINS: But that has not happened so far. There is no keyboard. It is very limited but they also have a lot longer outside of the areas. They could go into the outside yard up to 9.00 p.m. That is great, but there is no reason at all why that could not happen in a normal jail as well and then return to your cell where you can have your private space, even if it is with one or two other people. At least you can communicate with them, negotiate with them and establish your own way in which you deal with each other. You cannot do that with 25 people.

The Hon. LYNDA VOLTZ: But if you look at the figures of Parklea jail, which is designed such that there are cells and an adjoining outdoor area, the assaults are very high. If the Committee receives evidence suggesting that there is a lower assault in the dormitory style, would you reassess the theory behind dormitory style?

Mr COLLINS: In no way at all. It is a degrading of the space. If you have been in a cell, you know what it is like to have a private space where you can at least relax. You do not have to feel concerned about other people around you. At least you know who you are talking with and can negotiate with them. With 25 people you cannot do it.

The Hon. LYNDA VOLTZ: I will put this to you because I have a military background. I have been in Army barracks, I have lived in dormitory style and I have also worked in army jails. I do understand the difference. I am just stating that on the evidence there may be a benefit to that style.

Mr COLLINS: These are damaged people who have constant needs, are moving through and do not have the discipline of a military barracks. These people are trying to use drugs or are using drugs in Parklea. Six hundred of the 800 prisoners are having medication every day. You do not have that in a military barracks. You have damaged people who are in disarray. But they need to have at least privacy. Everybody has their entitlement to return to their room, to have a bedroom where they can sit by themselves and even think. In this dormitory, you do not have that. The psychological effects will be enormous. It is damaging on every prisoner.

Importantly, we did a survey and its result is the three-page document that we have tabled. We do not necessarily say that it was every prisoner they spoke with. In some stages, it has even contradicted the report from the Community Justice Coalition. They are two separate reports. We spoke with a number of prisoners directly when John Dowd, Elizabeth and I went through for four hours. Then we had a report from prisoners themselves where they put it to one another. The report said that everyone would have preferred to have their own cell or a normal cell arrangement. There is no doubt that there is a degrading of the environment for prisoners in a dormitory—there is no question about that.

It is open to a further series of questions we put to prisoners. On 27 July Corrective Services responded in its statement—which we have tabled today—that 35 low-security prisoners wanted to remain there. I do not doubt that out of 800 prisoners some low-security or other prisoners would be happy to stay there. That does not seal the matter at all. Long-term prisoners are intended to be kept in maximum security environment. Such an environment will be damaging to people. People will not be able to have their personal headspace. They cannot concentrate on study or even being themselves or relaxing.

The Hon. LYNDA VOLTZ: Maybe if I could ask some other members as well. What is the ideal model that you would be moving towards in terms of prison set-ups?

Mr COLLINS: It is a coordinated response. It is probably better that I respond because, to be fair, I have personal experience of being in a cell. What environment would we prefer? First of all, we would prefer—and this has come through very clearly from prisoners—that they want their private space. In some situations, they would like to have the option of being with somebody if they are distraught. The idea of a buddy system for someone who is suicidal is a good one. The peer support system is a good one, but it should be an option. You should always have an entitlement to be in a space where you feel safe.

The Hon. LYNDA VOLTZ: We are members of Parliament looking at the best outcome for the public. We want to reduce recidivism rates. We want to make sure that we reduce assaults and contraband and look at the courts as a separation of power that make the decision on the sentence and the type of imprisonment. To an extent, we are looking for the best outcome for the public as opposed to what a prisoner may prefer for his personal space. Sometimes that will not necessarily get us the best outcomes—such as reducing recidivism, getting prisoners qualified when they are released, getting that mix of jails because there are different levels of security—in the long term. What is the model that we should be moving to? Obviously, the public model—where the State is responsible for prisons—as opposed to the private model is the first step. But what is the next step?

Mr COLLINS: We agree entirely with you. We also take the attitude that we want low recidivism. We do not want our people to go out and return within two years. I think the rate is 51.3 per cent now. The State plan of reducing it by 5 per cent over four years has clearly failed: It has gone up by 8 per cent over the same period. There has not been any discussion at all with people in prisons or ourselves in prisoner movements about how that can be improved. One different thing has been put on the table: having computers in the cells so that people, through the import model, have access to positive things coming in.

At the moment, you are sitting in a cell—whether it is a dormitory or a cell shared with two or three people—and you have nothing positive coming in. All you have is finding out where you can get the next drugs from and feeling totally hopeless. The education system has broken down. People who were previously interested in teachers no longer have access to them. That is obviously going to have an effect on recidivism. Those things are all negative, they have all failed. The only positive thing that has been promised to us is computers in cells with online services so people can get access to education. They can get counselling through trusted and mainstream services in the same way that Norway does. You have a trusted service outside through either a whitelisted website or directly through a counsellor whom you trust. It remains constant, no matter whether you move to another jail. You have access to email with your family or to your lawyer.

Mr DAVID SHOEBRIDGE: Mr Hall, you articulated about an international research and the previous Australian experience about violence in dormitory-style prisons. I have seen some of that research and I find it compelling about the violence that has historically happened in dormitory-style prisons. But the response from Corrective Services in relation to the Hunter facility—and we have not been to the Wellington one yet—was that it is aware of that. Its response was a management response and a human management response which is having a structured day, a full integration of inmates throughout a structured day, engagement in programs and in industry, together with some passive observation things such as heat sensor cameras and the like at night. Their answer is that there have been significantly fewer assaults, not so much because of the build but the structured day and those passive observation measures. If over time that plays out and there are fewer assaults, what is your response? What is your response to the structured day as a way of managing those concerns that arose from a dormitory?

Mr HALL: This idea of reduced assaults has come up a couple of times now. That is not itself a sufficient factor for evidence for the programs there continuing. It could be one factor that weighs in favour of it. It is great if assaults are being reduced but other measures need to be considered.

Mr DAVID SHOEBRIDGE: They say they are going to do a five-year longitudinal study of this. What are the other measures we should be looking at to really test whether or not it is safe and functional?

Mr COLLINS: Obviously recidivism is one of them. That is clear. There would be a tracking through of the prisoners who have been held there for a period to see how they do perform when they are released. That is clearly one issue.

Mr DAVID SHOEBRIDGE: We have assaults and recidivism.

Mr COLLINS: And prisoners themselves should be provided an opportunity to respond. There should be a questionnaire of some sort handed out to them: "Do they feel safer?" We had effectively had a report, but it

would be much better if that were a more official report in which we were actually engaged. We would be happy to be part of that. And then there is an idea that there could be another way in which it could be constructed.

Mr DAVID SHOEBRIDGE: The last thing I will put to you is I know my experience yesterday was that the anecdotal responses that were coming from a good number of inmates—by no means am I saying it is a comprehensive response, but inmates who were coming and going, not put before us by Corrective Services—uniformly their anecdotal response was that they preferred the accommodation there over being put back into a traditional cell style prison. It was a uniform response, admittedly anecdotal.

The Hon. SHAOQUETT MOSELMANE: And it is only six months.

Mr DAVID SHOEBRIDGE: Yes. It is anecdotal and it is in the early stages. I have seen the evidence about prior dormitory experiences. I was very sceptical. I remain with an open mind, but the anecdotal evidence was universally going down one direction.

Mr COLLINS: There are quite a few reasons for that. The people in Cessnock are on protection. They are actually on protection from other prisoners, so they are not a typical group, whereas the ones in Macquarie are mainstream prisoners, so they are different from one another. It is a fresh jail, so they have new services. They have access to television like they never had before. Some of them, like a man we spoke to who has done 20 years in jail—

The CHAIR: Can I just cut in there for a second? The Hon. David Clarke wants to ask a question.

The Hon. DAVID CLARKE: I am sorry but there is very little time left because of the opening statements and the time taken on those. Mr Hall, in response to a question from the Hon. Shaoquett Moselmane, I am correct in saying, am I not, that you said you are not necessarily opposed to privatisation in prisons; you just need more information and more investigation? That is a summary, basically, of what you said in response to the Hon. Shaoquett Moselmane, is it not?

Mr HALL: No. It is a rather crude version of what I was saying. I did not posit that positive statement. I only re-characterised my argument as not saying that we have a clear list of evidence that I have presented that shows public prisons are better than privatised.

The Hon. DAVID CLARKE: Are you saying you did not say in response that you are not necessarily coming down against privatisation, that there should just be more investigation? Are you saying that you did not say that?

Mr HALL: You might be confusing me with the many double negatives you are using. Perhaps it is easiest just to—

The Hon. DAVID CLARKE: All right. But you did say that there needs to be more investigation.

Mr HALL: I do agree that there is a lack of accountability.

The Hon. DAVID CLARKE: I am not talking about accountability; I am asking about investigation. You did say, "We need to have further investigation," or words to that effect.

Mr HALL: I would say I agree with some of the literature that I have looked at that suggests certain areas of reporting require further investigation.

The Hon. DAVID CLARKE: Okay. Am I correct that you referred to rising death rates because of snoring? Did you link those two together?

Mr HALL: Let me see. Give me a moment, otherwise I can take that on notice and revisit.

The Hon. DAVID CLARKE: All right: Will you take that on notice?

Mr HALL: So the question is whether I said—

The Hon. DAVID CLARKE: That in some way you linked increasing death rates with snoring.

Mr HALL: Okay. I did not intend to link them directly. They were separate statements. One issue that has been studied is that there is noise and another issue is that there has been in the United States—

The Hon. DAVID CLARKE: You will take that on notice to clarify that because I also got that point.

Mr DAVID SHOEBRIDGE: He has also answered it.

Mr HALL: I have answered it then but I can reiterate it.

Mr DAVID SHOEBRIDGE: He has answered that they are not linked; they are distinct.

Mr HALL: They are not linked.

The Hon. DAVID CLARKE: Mr Collins, you were talking about the buddy system and the dormitories and so forth, but you will agree that the private bathrooms are certainly giving privacy, are they not?

Mr COLLINS: Normally in a cell, these days you also have a shower in a cell.

The Hon. DAVID CLARKE: Yes, but it is not private, is it?

Mr COLLINS: Well, in a cell there is a cubicle.

The Hon. SCOTT FARLOW: But if you have a buddy in the cell—

Mr COLLINS: It is not private to that point, no.

The Hon. DAVID CLARKE: That is right. With the private bathrooms that they have there where they can go in and close them, and they can only be there by themselves, do you think that is a good thing?

Mr COLLINS: I think it is a good thing. Yes, it is.

The Hon. DAVID CLARKE: Well, that is an improvement, is it not?

Mr COLLINS: Sure.

The Hon. DAVID CLARKE: When you thought it was important enough to refer to comments that David Johnson wanted to make you gave an example of some incident where supposedly an officer there said in response to something—

Mr COLLINS: No, he had it on his desk—a mug.

The Hon. DAVID CLARKE: He had a mug on his desk: "I couldn't give a shit."

Mr COLLINS: "Tell someone who gives a shit" was on his mug.

The Hon. DAVID CLARKE: Because it was on a mug.

Mr COLLINS: Yes, sitting on his desk.

The Hon. DAVID CLARKE: That is hardly a pivotal point in world history on this issue, is it?

Mr DAVID SHOEBRIDGE: But you are not suggesting that is appropriate, are you, for a manager to have that on their desk?

Mr HALL: But there is a lot of anecdotal evidence being used today.

The Hon. DAVID CLARKE: No, but what I am saying is you regarded bringing that out as important enough to put on the record that he had on his desk a mug that had that expression on it.

Mr COLLINS: And that it was acceptable to other staff who came into his office and about which he had no embarrassment. There was a question of accountability as well. Nobody else was saying a thing.

The Hon. DAVID CLARKE: The other incident you gave as an example was about a bashing where there was a 30-minute response. I am struggling a bit to understand that fully. Would you like to clarify that as well?

Mr COLLINS: I will. I can give you dates and times. I will ask David to supply that.

The Hon. LYNDA VOLTZ: Yes—if you could take it on notice.

The Hon. DAVID CLARKE: Yes, and what was defective. Thank you very much.

Mr COLLINS: Absolutely.

The CHAIR: We have come to the end of our time. I note that you have taken a couple of questions on notice. The Committee will be in contact with you. You have 21 days to respond. Thank you very much for coming.

(The witnesses withdrew)

(Short adjournment)

JOHN DOWD, AO, QC, President, Community Justice Coalition, affirmed and examined

ELIZABETH EVATT, AC, Member, Community Justice Coalition, affirmed and examined

The CHAIR: Good morning. Do you have anything to add about the capacity in which you appear today?

Mr DOWD: I am also President of the International Commission of Jurists Australia, which is a related organisation.

Ms EVATT: I am also a member of the International Commission of Jurists Australia.

The CHAIR: Would you like to make an opening statement?

Mr DOWD: As the Community Justice Coalition [CJC], we are representatives of a group of organisations concerned with prisoner rehabilitation, prison reform and the conditions of prisoners. One of the members of the coalition is Justice Action. We work with the group and agree with some of the things that it does and do not agree with other things it does. We also work with the International Commission of Jurists [ICJ], holding seminars, making representations to Government and making press statements. I formally table the report of the CJC visit to the Hunter Correctional Centre, the report from prisoners at the Hunter Correctional Centre and a letter written to us by Corrective Services, signed by Luke Grant, Assistant Commissioner.

We are primarily concerned with the dormitory or rapid-build prisons. We have not inspected the one at Wellington; we have inspected part of the one at Cessnock. I have visited many prisons during my life, both in Australia, the Australian Capital Territory, the United States and parts of Europe. We believe that Corrective Services failed to publicise that it was building rapid-build prisons and to get community views on them. It is not the habit of Corrective Services to seek community views, but this is a significant difference to other prisons and the history of prisons in this State. There are obvious benefits that come from the rapid-build prisons, including the speed at which they can be there, and there are certain matters that we approve of. But we disapprove of the prisons in principle.

The primary problem is the issue of the potential for bullying, violence and killing. The answer that Corrective Services has is to use gas—presumably tear gas. Those of you who have experienced tear gas would know that it means that everyone gets it, whether they have done anything wrong or not. For those of you who have not been subjected to it, I can assure you that it is not pleasant. The second issue is a loss of privacy, which is very real. The third thing is, of course, is snoring in male prisons. Snoring occurs in all human beings in one form or another. For some people it is absolutely catastrophic and saying that inmates can put earplugs or earmuffs on or whatever does not solve that problem and it leads to ultimate frustration and violence.

During the inspection, we were able to talk to some of the prisoners. The education programs were much less than satisfactory, but we would concede that it is early days for some of the programs such as the learning business program. People who left school at age 14 getting screen education on business is just silly. There was one program on cleaning, which people did not want to do. People have to do it, but they do not want to do that. Those courses will change, I expect, but there are problems throughout the prisons with there being no teachers there at the moment. The transfer to other organisations to deliver education has not worked and at the moment there is a serious deficit of education. I throw that in, being slightly outside your terms of reference.

Both the CJC and the ICJ are opposed to the privatisation of prisons. A corporation has a duty to survive and to make a profit. In a prison system, no matter how good they may be, how many programs they may have or how good their rates of recidivism are, they have an obligation to make a profit; governments do not. Governments have a duty to look after people to the best of their abilities with reasonable expenditure. Private corporations have a duty to survive financially and, therefore, some decisions will be made, whether they concern food, staffing levels or the nature of the accommodation, that go to the bottom line, which is survival. Corporations do not always survive; they only survive if they make a profit or cover waste. Just on rapid-built prisons: Yes, there is much more activity there and that is good. There is much more space where people can interact and that is good. It reduces the amount of time that people are locked down.

The showering facilities are good. They are going to put barbecues in to be able to interact and to be able to get out and look at what Oscar Wilde said in *The Ballad of Reading Gaol*: that little patch of "blue that prisoners call the sky". That they will be able to get out there until late at night is terribly important. But it suits the prisoners—some prisoners and not others. Older prisoners tend to need a quiet life, but there are some prisoners that are suited to that and some are not. That means that if you are careful in selecting, they can work.

We understand that the one at Wellington is a general maximum security prison and people were put there arbitrarily. That will not work well for some, particularly those in the C2 classifications, who are already in their community and are getting used to going out, dealing with family and all of that, and they are being artificially moved there. We do not believe that they work in the long term. It will take a long time before we have a prison population that allows us to close these down. We think they will be permanent. For the reasons that we have outlined in general terms, we do not think that works.

The Hon. SCOTT FARLOW: Mr Dowd, thank you very much for appearing today. With respect to the rapid build prisons, the figures that we were presented with have shown that assaults on inmates were lower compared to comparable prisons and that there has been only one need to use chemical munitions in Wellington and none in Hunter. Are you familiar with those figures at all?

Mr DOWD: Yes. I have seen some of the figures which have been produced. For Hunter it is very early days. When you are stuck next to somebody in an adjoining cubicle a few feet away and you are facing them every morning, it could take quite some time before you really want to knock that fellow's block off. It takes time for people to build up resentments against people. Bullying occurs collectively. Yes, we understand that at this early stage there have not been a lot, but those figures are now a little bit old. I think you should get up-to-date figures that are there. Most of the people at Hunter where we examined were still at the settling-in stage. Even though the attitude of the staff was very good from the prison governor all the way down, nevertheless it is early days to know whether someone is going to be knocking someone's block off.

The Hon. SCOTT FARLOW: With respect to the snoring issue that was raised before by Mr Clarke and you, I imagine that that snoring issue would be particularly acute when you are in a cell with somebody else who is a dreadful snorer.

Mr DOWD: Of course.

The Hon. SCOTT FARLOW: How is it different in this case where you have 25 people in a more spread out area and perhaps you do not have that same level of interruption from someone who snores?

The Hon. SHAOQUETT MOSELMANE: There is more potential for anger.

Mr DOWD: Yes. Instead of the one other person in your cell, and obviously a bad snorer, Corrective Services would get them on their own, if they can. But it is 25 people every night to have constant snoring. They are not very far away from each other. There are no sound barriers. The walls have little effect. Twenty-five people knowing every night that you have got that fellow five metres or 10 metres away and all night you can hear him, that is very real. Of course it is worse in a two situation, but that is easier to deal with because it affects only one person, not 25.

The Hon. SCOTT FARLOW: But in the same case, if you have that seclusion of a cell and somebody is locked away, there is probably more potential therefore an assault to occur than there would be in a 25-person cell, would you think?

Mr DOWD: It depends who the other person is. Remember, with 25, the lowest common denominator will be the one that is likely to be violent. You might be stuck with someone who snores in a two-person cell. You either live with it or you do not. But with 25, the threshold is lowered by the worst person among the other 24.

Mr DAVID SHOEBRIDGE: The weakest link along the chain, basically.

Mr DOWD: Exactly.

The Hon. SCOTT FARLOW: With respect to the instances of snoring, have you been getting reports of this being an issue in either Hunter or Wellington?

Mr DOWD: From Hunter, yes: from individual prisoners.

The Hon. SCOTT FARLOW: Has the Community Justice Coalition [CJC] taken this up with Corrective Services NSW? Has any action been taken or remedial measures adopted?

Mr DOWD: We have expect our views to the officers. We have fairly regular meetings with Corrective Services.

The Hon. SCOTT FARLOW: What has been their response with respect to things like that?

Mr DOWD: I cannot recollect a response that is useful.

The Hon. SCOTT FARLOW: In terms of the international examples you have taken of dormitory prisons and some of the issues that have arisen from there, have they had the structured workday—the work they

do in the morning and the educational programs and the like—to accompany the dormitory prisons like there is at Hunter and Wellington?

Mr DOWD: I do not know that, but I do know the structure works well. That is good at Cessnock. We were impressed by that, and that is good. Keeping them busy is a very good thing. It is one of the benefits that comes from that.

The Hon. SCOTT FARLOW: In our visit to Cessnock yesterday, one of the things that was raised with us is that effectively, because of some of the pitfalls of the dormitory style that you rightly raised in your report, the structured day was implemented to try to overcome some of those challenges. At this stage it seems that that is working. I am interested to know whether any of those international examples had a structured day as well.

Mr DOWD: I do not know enough about those others as to what their structure is.

Mr DAVID SHOEBRIDGE: Mr Dowd, thank you very much for coming. I have to say the concerns that you have raised and that Justice Action has raised about the threats in dormitory-style prisons seem very real. What kind of ongoing monitoring process do you think should be put in place to ensure that we identify if those threats are happening and there is some kind of feedback, either with yourself or with other parts of the public, if those threats eventuate so that we can track what is happening at these dormitory-style prisons?

Mr DOWD: I suspect that with an information process from prisoners there is a relationship between prison guards and prisoners. I do not think it is very difficult to work out who the problem people are in a particular area and who is likely to cause bullying or violence, or whatever. It may take some time, but it is not terribly difficult. There are informers in any prison. As long as they are not identified too readily, they can find out. You do need to have a monitoring program for the number of complaints and you need to modify the program and take out the potential troublemakers. One of the big problems will be the national groups—the Pacific Islanders and in some places the Aboriginal groups, and in some places the Lebanese nationals. There are different racial groups that will tend to get together. That could create serious problems.

Mr DAVID SHOEBRIDGE: But in terms of either Parliament or the Government or the Executive have in a monitoring process—so that we can keep an eye on whether or not these problems are actually developing in the prisons—do you have any suggestions about what that monitoring process may be? Maybe it is a public dashboard where data is put up. Maybe it is an annual survey of the inmates done by an independent body. Maybe there is some other monitoring process. It seems to me that we do not know yet, other than from very preliminary data, what the actual outcome will be. You accept that some of these problems take ages to develop. What is the ongoing monitoring process we should be looking at?

Mr DOWD: You need to have an anonymous complaints level for a start. There needs to be fairly regular surveys on prisoners taken by a professional outside body to put together. You can synthesise very quickly what the problems are with an independent conduct survey with anonymity and so on. But you do need something like that.

Mr DAVID SHOEBRIDGE: Would you envisage that to be an annual survey with publicly available data reporting?

Mr DOWD: That sort of thing. Maybe biennial but as long as you have got an individual anonymous complaints, or not anonymous mechanisms so that short-term problems can be brought to the attention.

Mr DAVID SHOEBRIDGE: Do you think the current oversight by the Ombudsman and official visitors provides sufficient anonymised avenues for complaint?

Mr DOWD: In terms of the rapid built prisons, we cannot assess that. We do not have enough information about that yet.

Mr DAVID SHOEBRIDGE: What about in other prisons?

Mr DOWD: No, I do not know that we can say how well that is working so I cannot help the Committee on that.

Mr DAVID SHOEBRIDGE: Should this Committee direct some questions on notice to Corrective Services and the Minister asking what those anonymised complaint processes are?

Mr DOWD: Oh yes. I think you need information on how the prison visitors are working. How the Inspector of Prisons is working. What mechanisms now exist for complaints. What surveys are taken and what information is given. The prison warders themselves from the Governor down will have a fairly good idea. There should be reports from each prison as to the levels of problems.

Ms EVATT: I think there will always be room for regular surveys both of prisoners and prison officers, particularly in a new environment I think it is very important to do those surveys to test where the problem areas are.

The Hon. LYNDA VOLTZ: Indeed, in others areas there will be a marrying between complaints from the prisoners and the prison officers. You will see problems emerge because at both levels you get similar complaints. In any environment people will complain not necessarily all the time but it is where there is symmetry between the two where you will see the patterns emerging.

The Hon. DAVID CLARKE: Mr Dowd, you referred to courses available to prisoners and there was a bit of concern about the course on business. We should take into account that many prisoners left school at 14-years-of-age. In response to that many of these people who left school at 14-years-of-age being trained as plumbers, electricians and some in upholstery when we were there yesterday and so many of those trades are small businesses. A person can be a good plumber but a bad businessman. Do you think that a course in general business could be particularly useful for these people who are in prison who are learning a trade or have a trade in order for them to go into business in a very profitable way? Do you think a grounding in general principles of business would be very helpful to them?

Mr DOWD: Oh yes. What you have identified in your question is correct. Indeed, years ago I addressed 200 students in my local technical college. I examined them on two documents and not one of them understood either document. One was a telephone directory and then governments separately listed. The other one was a cheque. I agree that training should be there but to put somebody in front of screen on a business program with balance sheets and so on is no way to teach. That is why we are concerned about teaching. You cannot put someone in front a screen who has no idea about business and expect them to learn from that. What I saw on screen was a level of sophistication that was way beyond the elderly—he was almost as old as I am. It was a waste of time. You need teachers and that is why I mentioned earlier teachers. You need people who can pitch education at the 14-year-old learning. What you said is correct. They need to be taught those skills but this is not the way to do it and this fellow said "I don't know why I am looking at this. I don't understand."

The Hon. DAVID CLARKE: Many of those people, particularly the younger ones, these days will take more readily to a computer, and the understanding of a computer and the teaching about how to use a computer and some of the business practices. Even taking into account that there may be the example you used, that may be something that is not helpful to an older person but may well be useful to a far younger person.

Ms EVATT: What you have said is no doubt correct. The problem as I see it at Cessnock and maybe at other places as well is that they are giving a high priority to putting each inmate into some kind of educational program. But the programs that each individual inmate is put into is not necessarily the right one for that person. There is first of all a lack of proper assessment of what each prisoner may need and when that is done the availability of the kind of program that that individual needs. That is where there is a sort of gap between what is needed and what is provided.

The Hon. DAVID CLARKE: Do they have a choice in what they do?

Ms EVATT: Not very much, no.

Mr DAVID SHOEBRIDGE: Any colour you like as long as it is black.

Ms EVATT: Very little.

The Hon. SHAOQUETT MOSELMANE: Yesterday we saw the people in the upholstery section were mostly aged 60 and above. They could not have gone out and become an upholsterer. Their screen in the dormitory had no keyboard so they could not do any computer work. Yes, they were busy and engaged but it was not clear that they would leave the prison with an education they could use.

Mr DOWD: We agree. Those training programs on stitching and creating furniture and metalwork and woodwork were excellent because they were learning skills. It is just the people that we met who were put in front of a screen—and it was not their choice—on something they basically did not understand is an absolute waste of time.

Mr DAVID SHOEBRIDGE: Basically a structured day will work.

Mr DOWD: Yes.

Mr DAVID SHOEBRIDGE: Have people engaged over not months but years, and the education component that they are required to do needs to respond to their needs. Is that the point?

Ms EVATT: Exactly, that is where the gap is.

Mr DAVID SHOEBRIDGE: There has got to be greater diversity in the options and greater consideration about courses that respond to the inmate's real needs. Is that right?

Mr DOWD: Yes.

The Hon. LYNDA VOLTZ: One of the guards yesterday ran an NRL refereeing course so that inmates would come out as qualified NRL referees. One can see why getting an NRL refereeing certificate would be attractive to an inmate to get employment on the outside. It is something that can be translated straight to the outside world. It is looking at what fits people's skillsets and what they will be interested in when they get out.

Mr DOWD: Yes.

The Hon. SHAYNE MALLARD: I thank you both for the work you do in this area. Your presentation today has been quite balanced in pointing out the positives as well as the negatives. I am a substitute in today's Committee so I did not go to the inspection yesterday. In your submission you state that the model infringes upon the United Nations' standards and rules for the treatment of prisoners. I have no doubt from what I have heard today that the rapid built prison and an open dormitory is confronting. When I read it I thought I would not be happy in that sort of arrangement. It is a culture change for the prisoners, those that are selected to go there, and a culture change for the officers—obviously, they have got to adapt. Do you think that the UN standard that you have cited on page 4 of your submission is not keeping up with the changes in approach to managing prisons and corrections?

Mr DOWD: There is not a comfortable marriage between the UN standards and what we are seeing here. The UN standards need to be looked at rapidly. When I inspected the ACT there, just the use of emails to keep people in contact with their families is a massive reduction in recidivism because they are in communication; it makes the whole domestic violence thing reduce. So as we learn, and as technology becomes available we need to be revising UN standards because some of the good things about the rapid-build prisons are that there are advances in technology.

The Hon. SHAYNE MALLARD: Today we have heard from a number of people, yourself included, about the malignant, for want of a better word, motivation of profit in the prison sector, but we do not hear about it in private hospitals or private schools.

Mr DAVID SHOEBRIDGE: Yes, you do.

The Hon. LYNDA VOLTZ: Yes, you do, all the time.

The Hon. SHAYNE MALLARD: Why would you assign profit motive the base to cut back on human rights, effectively?

Mr DAVID SHOEBRIDGE: Point of order: It is unfair to the witness because there are statutory prohibitions on private schools running at a profit in New South Wales and there are no statutory prohibitions on private prisons running at a profit. It is an unfair question to the witness based upon a false premise.

The Hon. SHAYNE MALLARD: What I am getting at is why is the profit motive a problem in prisons and not a problem in schools or hospitals, particularly hospitals, which would be a good parallel?

Mr DOWD: Whether you go to a private hospital or a public hospital is your choice—it is if you can afford it. The prisoner does not have a choice in a private prison or public, it is decided by Corrective Services. A private school or a private hospital has a reputation that it has to maintain by its standards and the public know about them and decide whether they go. There are a million views about whether you will go to the San or whether you will go to Royal North Shore Hospital, depending on how much you understand it—that is a choice. Prisoners do not have choices.

The Hon. SHAYNE MALLARD: That is a good response, thank you.

Mr DAVID SHOEBRIDGE: The San is also not-for-profit.

The Hon. SHAOQUETT MOSELMANE: In the submission it says rapid-build dormitory prisons are an unacceptable pressure cooker. You describe a few good things that are happening in those rapid-builds. Can they become acceptable down the track if there were changes to certain things—like you said, more open emails, more opportunities for prisoners? Can there be a point where it becomes an acceptable system?

Mr DOWD: All of those things can, as it were, ease the pain, but being day after day, night after night within three or four feet of another human being who has firstly been put there by the State through the court system is not your choice. People do interfere and look at what people are doing. Privacy is a very important part of the human psyche, and total loss of that privacy but the potential for bullying—and bullying can take

many forms; it can become extremely violent or it can become psychological—you cannot get rid of those. Those are our main problems, as well as the snoring; they are the main problems that occur there. None of these other things solve those problems, they simply ease them.

Ms EVATT: Could I just add to that that the rapid-build prison is a response to the overcrowding problem, it is a quick response to that. It cannot be seen as the long-term future for prisons for no other reason than that the prisoners sent there have to handpicked and sorted out so that they can get on with each other. It would not work if all prisons were like that.

The Hon. SHAOQUETT MOSELMANE: What about for minimum security prisoners? Would it be different?

Ms EVATT: They are minimum security there.

The Hon. SHAOQUETT MOSELMANE: If they were to take in minimum security prisoners.

Ms EVATT: There would still be the privacy issue, which would affect some people far more than others.

The Hon. LYNDA VOLTZ: They are unlikely to be a short-term solution, are they? The one we were at yesterday in the Hunter was \$470 million for 400 prisoners.

Ms EVATT: Potentially 400, yes.

The Hon. LYNDA VOLTZ: That is a very expensive short-term solution.

Mr DOWD: "Rapid" is the key. They are just as expensive to run as an ordinary prison; so there are no savings of money in their day-to-day operation, it was only getting them up within the 12 months. Rapidity is the only factor that is in their major favour; the other problems remain. We would say that there should never be any more because we all know that the prison population is not going to reduce until some of the Government's implementation on sentencing comes into effect, which will lower the rate of increase.

Ms EVATT: We hope.

Mr DOWD: We hope. But there is always going to be a massive prison population here in the State while there are problems with the Bail Act and so on and while there are delays in getting cases heard, because something like 30 per cent of people are on remand, some of whom will never be convicted. So it is going to be a while before we can close these down and we therefore want to make sure there are not any more.

The Hon. SCOTT FARLOW: Mr Dowd, I think your report on your visit to the Hunter Correctional Centre said that you had prisoners who spoke to you and said that they preferred that environment as well. I know you have also expressed that there are other prisoners who have said that they do not. Would you say that even with a selective cohort there would be a cohort within the Corrective Services inmate population in New South Wales that could be suited to that sort of dormitory-style accommodation?

Mr DOWD: Yes.

The Hon. SCOTT FARLOW: With respect to what we have seen so far, there is going to be a five-year longitudinal study into the rapid-build prisons and how they operate. If that showed evidence that assaults were lower—and I think this question was put by the Hon. Lynda Voltz before to Mr Collins—what would be some of the other parameters that you think would be needed to be KPIs or success indicators for justifying rapid-build prisons to continue in operation?

Mr DOWD: You need longitudinal surveys, you need a complaints mechanism, you need reports of the governors and the staff and, indeed, the prison guards union, to be made available before any decisions are made as to their continuation or any further prisons.

Ms EVATT: You might also look at the recidivism rate if you are taking it over a longer period.

The Hon. LYNDA VOLTZ: That is the point: we will not know that. It will take time before the information starts to flow down because it has only been operating for six months.

Ms EVATT: That is right.

Mr DOWD: Yes.

Mr DAVID SHOEBRIDGE: Mr Dowd, we have a submission from Gary Sturgess that says that one of the great benefits of private prisons is you have a cross-fertilisation of innovations from the private prison system into the public prison system. Are you, in your experience as very keen observers of the New South

Wales prison system over the last two decades at least, aware of any innovations that have come from either of the private prisons that have assisted in the management or operation of public prisons?

Mr DOWD: One of my reasons for going there is I am the Deputy President of the Mental Health Review Tribunal and used to be visiting prisons all the time. I cannot help you with specific examples offhand, but inevitably where there is competition between prisons systems they will learn from each other; there are going to be techniques that can be observed in one. So although we are opposed to privatisation, nevertheless there are benefits in all systems from having a competitor to learn from.

Mr DAVID SHOEBRIDGE: But done well in a public system you could have the various public prisons reporting against common criteria and feeding back their innovative solutions—institution A as against institution B. There is no requirement for private and public to have that kind of cross-fertilisation is there?

Mr DOWD: No. It is like our hospitals. Some hospitals are absolutely superb on systems and management. They are all part of the same government system but there are cultures built up and standards built up that make one hospital much better than the others. The same can operate in prisons. There ought to be standards for private and public prisons, with the same criteria, to ensure they can learn from each other.

Mr DAVID SHOEBRIDGE: But the proposition I have put, and I think you accept, is that you do not need a privately run prison to be part of the mix if you have the publically run prisons reporting to common criteria and sharing their innovation. You can have just as much innovation and cross-fertilisation from an entirely public system?

Ms EVATT: I would think so. Yes.

Mr DOWD: Yes, that is right but occasionally a new, a private developer, a prison operator can have learnt something from overseas. So occasionally there must be some new ideas that will come in that they have observed overseas.

Mr DAVID SHOEBRIDGE: Parklea has been showing novel ways of getting contraband into the jail. So I suppose there is some novelty in the current system.

Mr DOWD: Yes, I did not say that in terms of learning new things they also learn bad things.

Mr DAVID SHOEBRIDGE: Indeed, the cost savings and the profit motive that is developed in these large, global prison operations are every bit as likely—I would suggest more likely—to lead to the cross-fertilisation of profit driven and poor management responses as positive management responses.

Ms EVATT: Could be.

Mr DOWD: Yes.

The CHAIR: I thank you both very much for coming today.

Mr DOWD: Thank you for allowing us the opportunity to present our views and for the courteous way in which we have been dealt with.

(The witnesses withdrew)

(Luncheon adjournment)

REBECCA SIMPSON, Solicitor in Charge, Prisoners' Legal Service, Legal Aid NSW, affirmed and examined
ANTHONY LEVIN, Senior Solicitor, Human Rights Group, Legal Aid NSW, affirmed and examined

The CHAIR: Do you want to make a short opening statement?

Ms SIMPSON: Legal Aid NSW welcomes the opportunity to give evidence before this inquiry into Parklea Correctional Centre and other operational issues.

Mr LEVIN: Our opening, I should say, is split into two parts, for your information.

The CHAIR: That is okay, but the longer it takes the less time we have for questions.

Ms SIMPSON: Sure. We acknowledge the Gadigal people of the Eora nation on whose land we meet today. We pay our respects to their elders past and present. I would like to take this opportunity to highlight three issues that are significant to Legal Aid NSW—safety within the jail, difficulties in accessing clients in order to provide legal services, and concerns regarding delivery of documents in and out of the jail.

Significant issues have been raised within Legal Aid NSW regarding the personal safety of staff when visiting correctional centres, but particularly in relation to Parklea Correctional Centre. The sprawling nature of Parklea and the fact that the legal visits are held in a number of different areas within the prison has the potential to place visitors at risk. Moving between areas of the prison, amongst groups of seemingly unescorted inmates, being refused access to duress alarms, and a lack of security within the multipurpose unit, all contribute to the concerns of legal visitors to Parklea Correctional Centre.

Considerable difficulty is experienced by Legal Aid NSW in accessing clients on physical visits and when audio-visual link [AVL] bookings are made. Inmates are often brought to AVL areas late, and at times conferences are not facilitated at all. Staffing levels, both in AVL and on internal escorts, contribute to this delay. Inmates with physical disabilities may also refuse AVLs because they cannot comfortably access facilities or remain in waiting areas. There are similar delays in inmates being brought to face-to-face visits and there is no efficiency in the process when solicitors need to see more than one inmate on a visit.

Failure to have a consistent and known process for entry of visitors from the Prisoners Legal Service causes confusion and unnecessary delay in even getting into the prison. The process for lawyers and inmates to get legal documents in and out of the jail does not appear to be regulated, transparent or efficient. Inmates have regularly reported handing legal documents to staff for posting or filing that never reach their intended destination. This can lead to inmates being out of time to exercise their legal rights. This is of particular concern when prisoners' legal notices to preserve their rights to pursue personal injury claims go missing.

Inmates have reported legal mail having been opened before they receive it, despite the document having been marked "legal correspondence" and the fact that, under the Crimes (Administration of Sentences) Act staff are obliged not to open legal correspondence. Solicitors have also reported issues in being able to give or post legal documents to their clients.

Mr LEVIN: My evidence today will focus on prisoners' access to health care in Parklea Correctional Centre. Best practice standards for custodial environments in New South Wales are governed by the Standard Guidelines for Corrections in Australia. They draw their inspiration and content from the Nelson Mandela rules—the standard minimum rules for the treatment of prisoners, which create a duty on states to ensure prisoners enjoy the same standards of health care as are available in the community, without discrimination based on their legal status. In New South Wales section 72A of the Crimes (Administration of Sentences) Act 1999 states:

An inmate must be supplied with such medical attendance, treatment and medicine as in the opinion of a medical officer is necessary for the preservation of the health of the inmate ...

Legal Aid's primary concern is that despite the best efforts of health staff within the system, prisoners do not enjoy health services commensurate with community standards—not only because they are excluded from Medicare or the Pharmaceutical Benefits Scheme, but because often they cannot access the clinic to see a medical officer who must form an opinion about their state of health.

We acknowledge that the challenges associated with a custodial environment are indisputable and become more difficult when centres are overcrowded and contain people with a high prevalence of chronic disease and mental health conditions. From a criminological perspective, health is a recognised variable affecting reintegration into the community, along with others such as education and skill levels, employment, housing and social support. But health is a keystone variable. If neglected it may adversely affect the person's

emotional resilience, their substance use, engagement with services, employment prospects and even their tenancy.

Positive health interventions in custody should therefore be understood as crucial to an individual's prospects of rehabilitation and social reintegration. There are also public health implications if prisoners receive inadequate health care, especially for communicable diseases—that is, the chance of prisoners getting sick in jail and taking those health issues back into the community on release. In drawing the Committee's attention to certain healthcare issues today we stress that the experience of our clients in custody at Parklea is illustrative of issues across the prison system. They are not markedly different from the experience of inmates at other jails. However, according to the Inspector of Custodial Services in 2015 waiting times for medical care at Parklea were double the State average.

This inquiry therefore offers a prism through which to examine some key systemic healthcare issues. Those issues include, but are not limited to, (1) unreasonable waiting times for basic medical care; (2) plainly inadequate access to mental health professionals, including mental health nurses, psychologists and psychiatrists; (3) limited preventative care; (4) lack of continuity of care between prisons; (5) poor release planning; (6) limited access to the clinics themselves; (7) lack of, or frequently cancelled, medical escorts; and (8) lack of access to specialist care and allied health care. Notably, this litany closely reflects the submission made by the New South Wales Nurses and Midwives Association. In that respect we acknowledge the hardworking individuals who deliver health services in very difficult circumstances. We welcome this opportunity to be hard on the problem, not on the people, and invite your questions on our submission.

The CHAIR: Thank you.

The Hon. LYNDIA VOLTZ: Ms Simpson, when we visited Parklea prison they had particular problems due to the physical nature of that jail. You know, they could only process one prisoner at a time. The search area was very cumbersome. Are the problems at Parklea indicative of the structure, which is taking up a lot of staffing requirements to deal with? Are there better models of prisons in terms of the physical structure that allows easier access for legal professionals?

Ms SIMPSON: I think the layout of Parklea is quite a big contributing factor to their difficulties because of how sprawled the centre is and the way it feeds into one tunnel to get to the visits area. For family visits they all come back to the five-ways and then come back towards the front of the jail for those visits.

Mr DAVID SHOEBRIDGE: Is that the limitation of the gatehouse that you are talking about?

Ms SIMPSON: It is not so much the gatehouse, because only visitors go through the gatehouse. Once you go through the gatehouse, you go up a long walk and then into that circular area at the five ways, and it is that area that directs traffic through the whole prison. You have got people coming from the protection area, or what used to be a protection area in area five, through the multipurpose area and in area three, all feeding into one area, so there are inmates that should not be in the same area at the same time. That does cause, in my view, quite a considerable difficulty for staff. At Prisoners Legal Service, we have not experienced the same level of delay or difficulties so far as movements are concerned, I do not think, in any of the other Sydney prisons.

The Hon. LYNDIA VOLTZ: Is there a prison that has a better approach to the rest?

Ms SIMPSON: I do not think I can identify one in particular. For example, at Long Bay they have three separate prisons within the complex, and you just go to the prison that your client is in, rather than going to one central area and being fed through the maze. It does mean that if we have to see a number of inmates, we have to go to a number of different prisons, but at least we know we are going to area one and we are going to see those three inmates and then we will move on. We can structure our own day around that. It is easier for the staff, because they are moving within a smaller area.

Mr DAVID SHOEBRIDGE: What is the practical impact of that in respect of your work? As a Legal Aid solicitor you have lots of clients and a limited budget.

Ms SIMPSON: Yes.

Mr DAVID SHOEBRIDGE: On a practical daily basis what does it mean?

Ms SIMPSON: A visit to Long Bay is not a difficulty at all because we can assign different lawyers to different jails within that complex. You can go out for half a day, see your clients and be done with it. With Parklea, it is the assignment of one solicitor to that jail. You may have a list of 15 or 20 people to see and you might see four or five. Then you either come back another day, which we do not do because it is not practical to go through that process again tomorrow. We just take the names and then book video links. Video links have their own difficulties at Parklea, but they are more efficient than face-to-face visits.

The Hon. LYNDIA VOLTZ: Essentially, they are not getting face-to-face visits at Parklea that everyone else is getting?

Ms SIMPSON: That is right.

The Hon. SHAOQUETT MOSELMANE: I want to ask about accountability. In your submission, No. 36, at page 11 you state that a number of institutions have oversight of private prisons. They include the Auditor-General, the Inspector of Custodial Services, Corrective Services NSW and the Ombudsman. You note that in the last decade they have written fewer than 50 pages. Is there a suggestion that these institutions have failed to fulfil their role of ensuring that these prisons are being accountable?

Ms SIMPSON: I do not think I am in a position personally to answer that question. I can take it on notice and provide the Committee with an answer at a future date. It is not an area that is within in my personal expertise.

Mr DAVID SHOEBRIDGE: Can I ask you about another case. You have a number of disturbing case studies in your submission, but under contraband on page 5, you have a number of reports from Legal Aid NSW solicitors. One of them states:

I have had numerous clients who have suffered minor stab wounds whilst at Parklea [Correctional Centre] and it has been explained to me that "everyone has a shiv here"—

which is a makeshift knife.

Ms SIMPSON: Yes.

Mr DAVID SHOEBRIDGE: The next one is along the same vein. Another report states:

Clients have indicated that "you can get anything in Parklea".

Were these isolated reports, or was this the flavour of the reporting about Parklea?

Ms SIMPSON: It was the flavour of the reporting.

Mr DAVID SHOEBRIDGE: Does Parklea stand out in that regard?

Ms SIMPSON: The reports are not isolated at Parklea. I think it would be fair to say that it is more prevalent at Parklea than at other prisons.

Mr DAVID SHOEBRIDGE: You have another report from a solicitor that states:

I was a duty solicitor at our Blacktown office for 18 months. We regularly had matters coming out of Parklea CC including escape custody matters and matters involving the possession of drugs, sim cards, mobile phones, and weapons. It was incredibly and remarkably frequent compared to my experience of similar matters at other courts I have worked in.

Would you adopt that language "incredibly and remarkably" frequent?

Ms SIMPSON: From a Legal Aid perspective, yes, because that is the feeder court for charges from Parklea.

Mr DAVID SHOEBRIDGE: But there would be other courts that are feeder courts associated with other correctional facilities?

Ms SIMPSON: Yes, that is right.

Mr DAVID SHOEBRIDGE: Are you getting similar reports from those other courts?

Ms SIMPSON: Not to that extent. There clearly are charges coming out of other prisons, but as an organisation we have not had the same level of reporting of those same types of charges.

Mr DAVID SHOEBRIDGE: Mr Levin, you said the delay in getting medical treatment at Parklea is double that than other facilities, or the benchmark. Has anybody posited a reason for that to you? Is it a lack of resources, a poor integration with Justice Health? Where does the problem lie?

Mr LEVIN: Again, I am not sure I am the best person to answer that. I think you might look to the submission of the Nurses and Midwives' Association on the issues they faced in respect of staffing. I cannot comment on that but, anecdotally, our experience from listening to our clients is that they find it very difficult to access the clinic in the first place, and that relates to the first point of access. If you are locked in your cell, the only way you can get to the clinic is by buzzing up—using the emergency intercom inside the cell. Therefore, you rely on the officer on duty to listen to your complaint or your issue and allow you to visit the clinic at that time. Anecdotally, some of our clients are saying that they are ignored or that their issues are downplayed so

that they never get to the clinic in the first place for a health officer to form an opinion about their health. That is one issue.

The other issue is that even if they do get to the clinic, there are long waiting times at the clinic in the queue. Clients get very frustrated and irritable. Then when they do get to see someone, they are seeing a nurse, and the nurse may not have the capacity or the power to prescribe anything for them for their issue. The third stage, of course, is that if they need anything more than a nurse practitioner, there is a long wait to see the doctor. I do not think that the staffing issues at Parklea—I cannot comment on whether they are acute by comparison, but I refer back to the finding by the Inspector in 2015 that the wait times were double at that time. I do not know what they are now. That is certainly concerning. It dovetails with the instructions that we receive from our clients, which is that it is a very long waiting period.

What I can say is that a client that I had contact with last week said that he had a four-month wait to see a GP for some blood tests at Parklea. That is far in excess of the average waiting time that has already been reported on, which is 43 days, according to the last set of statistics that are publicly available. Maybe that is isolated. I am not sure, but even to have that wait now, I think, is possibly—I will let you draw your own conclusions.

Mr DAVID SHOEBRIDGE: On the face of it, it is in breach of their statutory obligation, which you pointed out at the beginning.

Mr LEVIN: Yes, I suppose one might make that argument.

The Hon. SHAOQUETT MOSELMANE: Mr Levin, you refer to the Nelson Mandela rule. Putting aside Parklea, in general, do our prisons meet the Nelson Mandela rule?

Mr DAVID SHOEBRIDGE: The Minister did not even know what that was the last time we tested him in budget estimates. He thought it was some strange United Nations thing. He had never heard of it before.

The Hon. SHAOQUETT MOSELMANE: There you go. What is your response?

The Hon. LYNDA VOLTZ: Mr Levin knows.

Mr LEVIN: The provenance of those rules is probably well known to this Committee. They are said to be the high water mark for minimum treatment for prisoners around the world.

The Hon. SHAOQUETT MOSELMANE: Do we meet that minimum?

Mr LEVIN: I would say that if the minimum standard is for a person in custody to enjoy the highest attainable standard of physical and mental health that is commensurate with the community, then no, we are not meeting that standard. Because it does not take four months to see a general practitioner in the community and a person does not wait eight weeks to deal with severe toothache, which is well in excess of the NSW Health policy directive for waiting list management for oral health care. For example, if a person has a toothache and it keeps you up at night, it is a week maximum recommended time. If it is waking hour pain, it is a month, but not eight weeks. In that respect I can draw on countless case studies where a person has experienced a far longer period to access health care.

It is not just toothaches, we are also talking about serious and chronic conditions, people who have, for example, a lesion on their face that they notice is growing and may be oozing liquid and they try to get care and have to wait months to get a biopsy. By the time they get the biopsy—and this is in one particular case—five months later, it reveals it is cancerous. Then it is another six months before they get a final diagnosis that it is metastatic and terminal. By that point an 11-month period has passed and the person is going to die. In this particular case the person got early release on parole and died five days after release in a hospice. Those are the most serious cases at the most extreme end of the spectrum. Of course, you can imagine there is everything in between.

Mr DAVID SHOEBRIDGE: Mr Levin, would you be in a position to provide us with a confidential, detailed submission about that matter so we can consider whether or not we address that in a confidential hearing with the Minister and the commissioner? You can take that on notice.

Mr LEVIN: I can take that on notice. I believe that case studies on some of these issues were provided on a confidential basis and that those were made available this morning in my correspondence with the Parliamentary Counsel staff member.

Mr DAVID SHOEBRIDGE: It could be my failing. I have not checked on my papers this morning. If it has not been provided could you provide that on notice?

Mr LEVIN: Yes, I will endeavour to do that.

The CHAIR: Yes, I think if you are correct that example is in our packet.

Mr DAVID SHOEBRIDGE: I was hoping not to have just a de-identified example but relevant details so we can demand a specific response in confidence. Again, you may want to take that on notice, check what your obligations are and who you need to get those instructions from.

Mr LEVIN: I can do that.

Mr DAVID SHOEBRIDGE: One of the concerns raised is about Parklea officers opening legal correspondence. This seems not to be an isolated issue but has happened repeatedly. What, if any, process is there that can be followed to have accountability for that and to prevent it happening?

Ms SIMPSON: To be fair, that is not an issue that is isolated to Parklea. It has been an issue across Corrective Services. We have worked with them to try to reduce those issues or instances of that occurring. From a solicitor's point of view, at the moment the most on a one-on-one basis that we do is contact the prison and remind them of their obligations. As far as the system is concerned, it is really up to the prison as far as awareness for all of their officers to be aware of what their obligations are in relation to that mail.

The Hon. LYNDA VOLTZ: Do you contact the general manager of the prison or do you contact the Corrective Services monitor at the prison? When you have an issue, at Parklea in particular as a privatised prison, there is a Corrective Services monitor of the prison. Is that who you contact?

Ms SIMPSON: We would generally write to the manager. I do not know whose desk that lands on once it gets to the prison.

The Hon. LYNDA VOLTZ: Have you ever raised these issues with Corrective Services?

Ms SIMPSON: Yes, not specifically about Parklea, but in a general or global sense. I have raised that within the last three months at a meeting with a member of Corrective Services who was concerned about the issue. We have since that meeting been more proactive with clients and asking them questions about what has happened and getting some more details from them but the member from Corrective Services gave an undertaking to raise that across the board and indicated to the meeting that it is a matter of education for staff and that each jail needs to be updated on that information from their perspective, not by us.

Mr DAVID SHOEBRIDGE: A statutory requirement, without some kind of remedy attached to it is, as this shows, relatively worthless.

Ms SIMPSON: It is difficult to enforce.

Mr DAVID SHOEBRIDGE: The same for access to a reasonable level of medical care. Can either of you think—you can either present now or on notice—what might be a viable, practical remedy that can be accessed in these cases so that prisoners get access to health and breaches of legal professional privilege are held to account to be prevented in the future?

Ms SIMPSON: This is not the answer to the question, but I think the difficulty in some ways in enforcing the mail issue is evidence. It is an inmate's word against the officer. It is difficult for them to substantiate that it was opened before or not.

Mr DAVID SHOEBRIDGE: That could be easily solved by having some kind of recording of the correspondence as it is presented to the prisoner, could it not? That does not seem to be an insuperable problem.

Ms SIMPSON: Possibly not, no.

The Hon. LYNDA VOLTZ: Have you ever made any complaints to the Inspector of Custodial Services about the operation of the prisons?

Ms SIMPSON: I have not personally.

The Hon. LYNDA VOLTZ: If you can take the question on notice and check whether there have been any complaints made to either the NSW Ombudsman or the Inspector of Custodial Services.

Mr LEVIN: I can certainly say that I know of clients who have complained to the Official Visitor, who is under the auspices of the Inspector of Custodial Services. That is typically the first port of call for any inmate with a grievance that they cannot resolve locally. I know that in some instances that has happened and something we often hear, unfortunately from our clients, is that they have spoken to someone locally at the jail and it has fallen on deaf ears, then they have had to make numerous calls to the Official Visitor. Sometimes they are able to help and other times they are not. I think there are recognised barriers for what they can do to intervene.

In answer to Mr Shoebridge's earlier question about what remedies might exist, for the benefit of the Committee it might help to just further explain what remedies do exist. Some of them are soft remedies and some of them are really quite remote. For example, if a person has a medical negligence claim they could in theory access a private lawyer—not Legal Aid because we do not do those matters, they are outside guidelines—and they could try to garner evidence of their issue. For that to happen, of course there are fairly obvious barriers, such as how do you even get to speak to the right lawyer in the first place and not many private practitioners will go into jails. They usually pass through Legal Aid in the first place anyway. Then they have to file a notice, which is called a section 26BA notice under the Civil Liability Act and that notice has to be filed within six months. Many of our clients miss that notice period.

This cuts across the mail issue as well, because if we supply inmates with a precedent letter for them to complete and send off, especially if we are dealing with them by audio-visual link, they are completely dependent on the mail system for that notice to be properly lodged. Time and again we hear them say, "I don't know where that went. I don't know if it was lodged." Because they do not know what has happened to it and do not get a receipt for it. The barriers to actually commencing a claim are very difficult.

Mr DAVID SHOEBRIDGE: The 15 per cent whole person impairment threshold before you can even commence is another barrier, is it not?

Mr LEVIN: That is right. There is a 15 per cent impairment threshold. Permanent and stable injuries have to be evidenced, and even if a person receives compensation if they are in custody, that money may go into the victim's trust fund. So, the person does not get to see it anyway. Some of those barriers are quite a big disincentive. The soft remedies are making complaints to complaints bodies like the Health Care Complaints Commission [HCCC]. But that is a difficult proposition because sometimes, those complaints simply get referred back to Justice Health or may result in a kind of assisted resolution meeting which is non-binding. These are not really hard-and-fast remedies for people with serious issues.

Mr DAVID SHOEBRIDGE: Do you think there should be something like a medical ombudsman or an independent medical review panel that keeps an eye on this? If inmates have a chronic, unmet need, they can refer it to independent medical review panel. The thought of an inmate dying because of the lack of medical attention is deeply distressing to me.

Mr LEVIN: The HCCC already has investigatory and disciplinary proceedings powers which it can exercise in relation to substandard care. I am not sure that I would be proffering the creation of a whole new body, when an existing body probably can either do some of those things or its powers could be bolstered in some way.

Mr DAVID SHOEBRIDGE: Could Legal Aid extend the program with some additional resources so that it could get inmates' complaints to the HCCC? Is that one way of dealing with it?

Mr LEVIN: I will never say no to more funding for Legal Aid.

Mr DAVID SHOEBRIDGE: I am wondering whether or not it is the viable solution, through Legal Aid, one of the inspectors or the ombudsman?

Mr LEVIN: I might take that question on notice. I am not sure what the position is on that issue. But I would add that it is valuable to compare what other jurisdictions are doing. Notably, Victoria and the Australian Capital Territory have, in my view, far stronger protections for a reasonable standard of health care in custody. For example, the Corrections Act in Victoria explicitly states that a person has a right of access to reasonable medical care and treatment. The Australian Capital Territory's Corrections Management Act explicitly that a detainee should have a standard of health care equivalent to that available to other people in the Australian Capital Territory. Those Acts go further than the Crimes (Administration of Sentences) Act does. It is a matter for the Government of the day to determine if it is appropriate to extend protections in New South Wales—I would not comment on that, but note the comparison.

The Hon. SCOTT FARLOW: Mr Levin, you said that HCCC has the power to investigate. Are you aware of any instances within prisons where it has investigated in the past?

Mr LEVIN: The answer is a little complicated. I am aware of an instance of investigating what was, at first instance, deemed to be substandard care by a nurse. But subsequently, through closer investigation and consultation with that nurse, it was decided not to pursue that investigation. This related to an inmate who had suffered a heart attack for, I think, a 10-hour period in custody before being admitted to hospital. That is one case that I can draw on off the top of my head.

The Hon. SCOTT FARLOW: Did HCCC do the preliminary investigation?

Mr LEVIN: That is how it more or less operates: It can choose to conciliate matters—which is appropriate in some cases—and investigate others. The investigation can proceed to various stages of seriousness, the most serious being disciplinary proceedings. Otherwise, I am not aware of other proceedings that have gone that far. It might be something that I could take on notice, if it would help the Committee.

The Hon. SCOTT FARLOW: Thank you. With respect to access to clients for legal visits, Parklea has particular issues which you have raised. I am thinking about the comparisons with other private facilities such as the one at Junee. Does Junee Correctional Centre have those facilities? I know that it is not remand so it is hard to make a direct comparison.

Ms SIMPSON: As Prisoners Legal Service, we do not do face-to-face visits to Junee but we do video link visits and I could not complain about them at all. As a distinction, as a solicitor trying to get audio visual links [AVLs] at Parklea at the scheduled time, the inmate is invariably not there. It may take the entire booking time to get them to the visit—if they get there. To contrast that with Junee, if I am not ready at the scheduled time, Officer Maxwell will ring me to say that my client is waiting. If the client is there early, he would ring me or send me an email to say that we can get started if I am ready early. So they are proactive in getting their schedule met as opposed to being slow, late or not happening, at Parklea.

The Hon. SCOTT FARLOW: I imagine that because of the nature of the facility, the amount of visits or interactions required with a lawyer would be significantly higher at Parklea compared to Junee.

Ms SIMPSON: The nature of the visits is different. Prisoners Legal Service does all the appearance work at the NSW State Parole Authority. If we put aside our advice and minor assistance role and talk only about the parole work, there would potentially be more work coming out of Junee because they are settled inmates and some of them are applying for parole. But there would be more returns to custody at Parklea for the parole work as well.

The Hon. SCOTT FARLOW: When you raised these issues with the manager of the facility—you said you are not exactly sure where it goes to—has there been any response? Has there been any change to systems put in place at all?

Ms SIMPSON: I have written to Corrective Services a couple of times. Are we talking about issues regarding mail?

The Hon. SCOTT FARLOW: With respect to Parklea and access.

Ms SIMPSON: As far as access issues are concerned, they are generally raised with whoever is the officer at the time. It is not taken to the next level. It is just the banter of the telephone at the time. Legal Aid, as an organisation, does have meetings with Corrective Services at a higher level. Maybe our executives meet with Corrective Services but I am not involved in those meetings.

Mr DAVID SHOEBRIDGE: Your submission has a degree of bloody-mindedness at Parklea which I find really offensive. One example that you give is a Legal Aid solicitor reporting that two clients at Parklea not given their reading glasses for months.

Ms SIMPSON: Yes.

Mr DAVID SHOEBRIDGE: You identify how that means that they cannot read the brief of evidence or respond to their lawyers' letters. How on earth is it that a prison operator with complete control over prisoners and would absolutely know of their need does not do something as basic as provide them with reading glasses for months at a time? Do you know how that eventuated?

Ms SIMPSON: I think that is a question for the operator. I received a call from solicitors when that situation has arisen. They have written to Justice Health and the prison. At one point, one of them bought a pair of chemist prescription glasses and asked us to sign them in to the inmate's property just so that they would have something to enhance their sight.

Mr LEVIN: I have a similar story of a client whose partner brought +1.00 chemist prescription glasses into custody to have them signed in and was not allowed to, even though that same person had been making multiple requests for reading glasses over a period of time.

Mr DAVID SHOEBRIDGE: Is that also at Parklea?

Mr LEVIN: That was also at Parklea.

Mr DAVID SHOEBRIDGE: Is their response to bring in +1.00 glasses on the first visit, +2.00 glasses if that does not work, or +3.00 the third time? In this case, they did not even get to first base?

Mr LEVIN: That is my understanding.

Mr DAVID SHOEBRIDGE: It sounds to me from the discussion between the two of you that the reading glasses issue is reasonably common. How would you describe it? As "not isolated"? I would describe it as "reasonably common".

Mr LEVIN: I would say it is not peculiar to Parklea. I would say it is a common issue in the system more generally. Part of the difficulty I think is that the clauses of the regulation permit enormous discretion to the chief executive of Justice Health to determine to what extent a person is entitled to optical care or dental care and other kinds of care. It is very difficult to establish a threshold minimum standard.

Mr DAVID SHOEBRIDGE: For accountability. And again you would probably point to the Australian Capital Territory model, which sets a very clear standard, and compare the New South Wales model. I characterise that as adversely but you say it is just a matter of comment—is that right? You probably have to, coming from Legal Aid.

Mr LEVIN: I would say that; that is right.

The Hon. SHAYNE MALLARD: With regard to access, the legal meetings and the issue of correspondence you have raised, in your experience across the prison system and the different correctional centres is there a standard protocol for all the different corrections facilities where you have access and the time line in terms of when you request a meeting and that type of thing? You have given us an example where you have a very good service coming out of Junee. That sounds like it may be just surrounding one officer's personal dedication. Is there a consistent standard or is each prison subject to its own rules and arrangements?

Ms SIMPSON: As far as AVLs are concerned, there is an online booking system in place across the State both for video link and for telephone conferences. Most of the prisons are fairly good at keeping to schedule with that. There are a few exceptions. Wellington is particularly difficult, and Parklea, obviously.

The Hon. SHAYNE MALLARD: Is that because of the larger number of inmates and high demand or physical constraints? You just mentioned that with Parklea.

Ms SIMPSON: With Parklea I think it is a combination of the physical layout of the prison and also we have had anecdotal reports from staff at the prison that there are not a lot of staff on, either rostered on to escorts or in the AVL area itself. About three weeks ago one of the officers said to one of my staff, "I'm the only one in AVL today and I've got 80 inmates to get through this system." That was the explanation for why her client was not there. The whole of her conference time was used up and eventually the solicitor said, "I've got another booking at another jail; I can't wait any longer," and had to book it for another day. And then it took an hour on the next occasion for that same inmate to be brought to the conference. It is an issue that comes up at other prisons as well but it just seems to be more stark at Parklea.

Mr DAVID SHOEBRIDGE: You mentioned Wellington. Weather dependent I will be heading off to Wellington. Everybody else is heading off to Wellington tonight. What is the issue at Wellington?

Ms SIMPSON: Particularly on Mondays but not only on Mondays Wellington has a way of cancelling all legal conferences. "Operational issues" is the general tag that we get as an explanation. We have a high rate of officers reporting that inmates have refused to attend a conference. That is more—

The Hon. SHAYNE MALLARD: Monday sickies.

Ms SIMPSON: For most, but from my perspective I appear at the State Parole Authority on Tuesdays so a lot of my Wellington conferences are Monday for Tuesday and the clients are then not conferenced for court the next day. Then they have to rely on a telephone call the next morning.

The Hon. SHAYNE MALLARD: Is the Wellington situation absenteeism from staff that is causing that?

Ms SIMPSON: I honestly do not know what the situation is at Wellington.

The Hon. SHAYNE MALLARD: Mr Levin, you have raised the health issues at Parklea. I am not quite sure what the arrangements are with Justice Health providing the services to the Parklea facility, but have you raised those concerns with Justice Health?

Mr LEVIN: Yes, we have in various ways. We are doing our best to liaise with senior staff at Justice Health about some of these issues. As I said in part of our opening statement, we believe that there are very good people in Justice Health who are doing a hard job under trying circumstances and there are enormous operational pressures on them at all times to deliver health care. So we have taken a fairly collaborative approach to communicating about those. Some of those conversations are happening offline and some of them

also occur at joint stakeholder meetings like the one that Ms Simpson referred to earlier, which bring together various people invested in some of these issues to come up with collaborative solutions. I am not sure if that answers your question.

The Hon. SHAYNE MALLARD: I would assume—and other members of the Committee probably know the answer; I am only on this Committee for today—that Justice Health provides contracts of service to GEO, that runs Parklea, or does it run its own independent hospital within the complex?

Mr LEVIN: My understanding is that the health services continue to be provided by Justice Health and that any of GEO's practices or policies which might be internal corporate policies should match or mirror those of Justice Health. There have been coronial inquests which have concerned deaths in custody at prisons managed by GEO. My reading of those inquests suggests that that is the case—that the policies should be commensurate and that where they are not that is a problem.

The Hon. SHAYNE MALLARD: If it is alleged they are restricting access to health care to the prison population for reasons of reducing cost—that is the suggestion; it might not be your suggestion but it could be a suggestion—it would indicate that there is a cost involved in the prison operators taking the prisoners to the medical facility within the prison complex, I assume. Do you know if that is the case?

Mr LEVIN: Do you mean internally?

The Hon. SHAYNE MALLARD: Yes. It is a service provided by the Government health agency to the private contractor running the prison. Is that a transaction that is occurring there? I guess we may have to ask someone else, but is there a transaction that occurs there? Otherwise, if there is no transaction, what would be the motivation for them to be an obstructive gateway to primary health care inside the prison?

Mr LEVIN: I certainly do not want to suggest that they are being obstructive, but I think—

The Hon. SHAYNE MALLARD: Earlier you told the Committee that it was double the waiting time—it takes four months.

Mr LEVIN: Yes—in one case four months. I think it is logical to draw conclusions about the nexus between staffing levels, including health staff and waiting times, as well as staffing levels for medical escorts to external appointments, which is a truly systemic issue across the system. I am not prepared to comment on the particular arrangements because I am not familiar with them and I do not know that the documents that would tell us the answer are publicly available.

The CHAIR: We might draw questioning to a close there. Thank you very much. Thank you for coming. I note you have taken some questions on notice and also that the Committee has resolved that answers to questions on notice be returned within 21 days. The secretariat will contact you in relation to those questions in due course. Thank you very much for coming.

Mr LEVIN: Thank you.

Ms SIMPSON: Thank you.

(The witnesses withdrew)

GARY STURGESS, Professor of Public Service Delivery, Australia and New Zealand School of Government, University of New South Wales, sworn and examined

The CHAIR: Welcome, Professor Sturgess. Would you like to make a short opening statement?

Professor STURGESS: No, thank you.

The Hon. SHAOQUETT MOSELMANE: Under the heading of "Contestability" on page 7 of your submission, you argue that:

Done well, the introduction of competition and contestability into a previously closed system can serve as a vehicle for challenging incumbent managers to perform better.

Can the systems, if done well under the public system—this is a question the Mr Shoebridge asked earlier—have competition between themselves rather than outside competition with the private sector? Could competition between public entities deliver innovation and services that are just as good as the private sector?

Professor STURGESS: The research that has been done on this question would lead us to the conclusion that there is usually no inherent superiority on the part of the private sector. There are places where the shortage of capital may mean that the private sector will have an advantage. But in terms of the delivery of services, the evidence would suggest that it is competition or, I would argue more particularly, contestability—which is not the same thing—

The Hon. SHAOQUETT MOSELMANE: Could you describe that aspect of—

Professor STURGESS: Contestability comes out of economics and it is the concept that you do not need actual competition in order for organisations to act as though there is competition. There needs to be low barriers to entry—there is a set of conditions that lead to that. Is it possible? It comes down to several things. You need to have good comparative data on performance and the investment of resources in order to deliver that performance and the information has to be independent and believable—people have got to have confidence in that. There is some evidence suggesting—and I refer to some of the studies in my paper—that yardstick competition or the mere embarrassment effect of being benchmarked against your peers will deliver some change. But if at the end of the day management does not perceive there to be an alternative and does not believe they can or will be replaced—and there are some other conditions I can add to that—they will not do the job as well as they could. It is a monopoly.

That does not need to be the private sector. I refer the Way Forward prisons, which were done under a Labor Government in this State. They were able to substantially reduce sick leave over time in two new built prisons, which were operated by the public sector, because the Government said to management and unions at the time, "We want you to do this differently and if you do not we will go to the private sector." They did not and the evidence at that time showed that the Way Forward prisons were delivering much better on those benchmarks. The short answer is no it does not have to be private competition against the public sector, but you do need to be very grown up and honest about the conditions under which public sector managers will be challenged and will respond to that challenge.

The Hon. SHAOQUETT MOSELMANE: You mentioned the need for comparative data. Do we have comparative data?

Professor STURGESS: It is being built. Until five or six years ago there was no consistent benchmarking or measuring being done on the public prisons in this State on the qualitative side. It is only with the Better Prisons initiative that the Government has, if you like, put a peg in the wall on, let us say, hours out of cell and said, "We expect you to achieve 7.2 hours out of cell. If you do not achieve that we will be having a discussion with you about why you are not achieving it." They were measuring but they were not saying, "This is what is good enough or good enough for the time being". Cost data is being built as well. There has been some work done to build some comparative cost data. It takes time because no two prisons are really quite alike. You do have to be careful about how you build that data and how you use it.

The Hon. LYNDA VOLTZ: But is that not the problem? We are not comparing apples with apples across the prison system. That is what we are finding. At the Hunter Correctional Centre there is a select group of prisoners so there is an incentive for them to work together. Meanwhile, prisons such as Parklea are probably carrying a heavier load of whoever turns up. They are not getting to cherry pick; they are getting the people who have more complex problems. It is a much more difficult scenario to move prisoners around that correctional facility.

Professor STURGESS: But I think Government is entitled to say as an initial proposition that on average prisoners should be out of cell for 7½ hours per day, or whatever it is, and that there should be five hours of purposeful activity. What the Government is doing through Better Prisons is that having laid down some rough number, there has then been two or three years now—it has probably been going for 18 months to two years—of talking to prison management staff and unions and talking that through and trying to pick up and take account of the local differences. I have got to say, my feeling is that the first time through that is still not going to be quite good enough because it is new for everybody. We need to be very careful about using those benchmarks too rigidly the first time through. But, over time, we should be able to build an understanding of the system that is at least better than where we are.

Mr DAVID SHOEBRIDGE: That would not be hard. If that is our benchmark—better than where we are—we do not really know now. The question is how do we make it work so it is meaningful data. At the moment, we do not have much meaningful data.

Professor STURGESS: We have lots more than we used to and that will build as we begin to measure these things and then audit that measurement and build confidence.

The Hon. LYNDIA VOLTZ: If you build a benchmark that says 7½ hours outside of cells, that would work on the principle that you have investment in education and training, employment opportunities in the prisons and movements around the prison. It is a complicated structure to build in.

Professor STURGESS: There are two companion measures here: One is hours out of cell. I like that because it is hard and I happen to think that that is a good measure of the decency of a prison or a prison system. Let me give you an example. The first contract prison in the United Kingdom [UK] was 14 hours out of cell. For me, as an outsider and as someone who observed that system fairly closely for the 11 years I lived there, I do not see why that should not be our ambition, 14 hours out of cell. The thing about that is that the companion measure has got to be purposeful activity. You cannot just have people hanging around out of cell doing nothing. You need to have them engaged, both for the good order of the prison but also, yes, part of the points out of cell is decency. Part of it is they are out there so that they can be doing work, so that they can be doing drug rehabilitation programs, so that they can be doing their education and so on. The point of it is to have them in an environment where they can be learning and improving.

Mr DAVID SHOEBRIDGE: Not just stalking up and down the prison yard as you see in some. Before we go off the data point, Professor, I assume you would be aware of what I know from my research is about the only Australian academic study on private prisons. That is the one done by Professor Jane Andrew and Drs Baker and Roberts—their "Prison Privatisation in Australia" study.

Professor STURGESS: No. Presumably that was after I did a lot of work on this, so it is in the last few years is it?

Mr DAVID SHOEBRIDGE: In 2016. I think that is the most current and comprehensive study of data for private prisons in Australia. I will read this proposition to you from their findings and see whether or not you agree with it:

Overall, we find that there is not sufficient evidence to support claims in favour of prison privatisation in Australia. As a consequence, it is our view that no further privatisations should take place before an appropriate level of information is made available to policy makers and the public in order to properly assess the impact of privatisation on the sector. In addition, there is a need for more research that engages directly with those impacted by the sector: prison employees and prisoners.

Professor STURGESS: I find that unlikely. I would like to know what their database is. They would not have had access to any of the State prisons in Australia. I would love to know what their database is. Ten years ago I looked at all of the then available studies around the English-speaking world and one from France. The best study on this was done in the UK over some time—the most detailed study. Australia has some other studies that are not terribly high quality. That comparative work tells us that the savings over the four years of that particular one study were somewhere about 15 per cent. If you then look at the data coming out of the National Audit Office in the UK over the early public-private partnerships [PPP] prisons and look at what is likely to be the operating element of those, you are looking at another 20 per cent or 30 per cent. Arguably, the last of those PPP prisons went too far, but the early ones performed well. I find that improbable.

The thing about contracting is not can competitive tendering save money. That is not the problem: Of course it can save money and of course it will drive down costs. The question always is: Will it do so at the expense of quality, at the expense of the safety of prisoners and the security of the institution? That is the question. Of course competitive tendering will drive down costs: That is a no-brainer. We all agree on that. I will go away and look at the study in more detail.

Mr DAVID SHOEBRIDGE: I invite you to do so. It does surprise me that you come and give a detailed submission on this very discrete area about the efficacy of private prisons, and, from my observation, the one solid academic paper—which has not come out of social science, by the way; it has come out of the accountancy department at the University of Sydney—and they are numbers people—

Professor STURGESS: Can you tell me what their database is? Can you tell me what the source of their information was?

Mr DAVID SHOEBRIDGE: I am happy to read the entire thing on the record, but the report brings together publicly available information. The report states:

This report brings together publicly available information and as a consequence, relies almost exclusively on institutionally generated forms of knowledge about private prisons. This limits the frame within which this report can be read. For the most part we comment on the presence or absence of information relative to other states, in order to indicate areas and issues that warrant further research. By way of an example, we discuss the cost per prisoner per day figure provided by each state, but it is clear that more work is needed to assess the quality of these figures and whether they hinder or support evidence based policy.

In addition, some states with private prisons may appear to be functioning better than other states because they disclose more data at a greater level of detail; however, there are limitations to this interpretation. Comparatively better performance does not necessarily equate to good performance and the existence of comparatively more information does not necessarily mean it is useful or of good quality.

They acknowledge the data limitations.

Professor STURGESS: Okay. I will read it, but I will tell you that there is no public information in recent years that enables us to compare contracted prisons versus non-contracted prisons. We simply do not have that data. It is not public. You know that the last time it was made available in New South Wales publicly was the Auditor-General's reports back in the mid-2000s.

Mr DAVID SHOEBRIDGE: I will not read to you all of the data that they have, but that is probably not true. There is a degree of data in the public domain. Professor, probably the best way of you finding out about the data that they relied upon is to read the report, which I would endorse to you. It would appear your answer, where you say there is no data, makes it hard for me to understand why you would suggest that private prisons should be part of the mix. In the absence of data, that is more like a hope and guess rather than anything else.

Professor STURGESS: There is no data in recent years. The last time this was made public in New South Wales, Junee prison was performing at a substantially lower cost than its benchmarks. You can debate what do you compare it with, but what was disturbing, I know, for the Government at the time—it was a Labor Government—was that the gap was getting wider. That is the last time there was public data in New South Wales.

Mr DAVID SHOEBRIDGE: You are talking about data from, I think, 2009 or 2010.

Professor STURGESS: Okay, but if it worked then, in principle it could work now.

The Hon. LYNDA VOLTZ: Can we just get back to the—

Mr DAVID SHOEBRIDGE: This is like last week's microwave dinner. It is the most barren and dead data.

Professor STURGESS: I have been challenged. Can I answer?

Mr DAVID SHOEBRIDGE: Absolutely.

Professor STURGESS: I have been challenged. Can I answer? I quoted in my report—I mean, I was not discussing privatisation in the report. To the contrary, I said something different. I was actually arguing for contestability and I was arguing for the benefits for the public sector, if you can get the right conditions in order to improve the public sector. This is not, if you had read it, an argument for privatisation.

Mr DAVID SHOEBRIDGE: Are you asking me if I have read your submission? Because I have, which is why I am asking you questions about where your data comes from and what you are relying upon, and whether or not you actually read the most recent academic research on it.

Professor STURGESS: Can I quote the Queensland Audit Office on page one of my submission under, I think, a Labor Government:

The private provision of public services in the state's prison system is realising significant cost savings while providing a level of service commensurate with publicly run prisons.

These are people who do have the data available to them all. In 2016, that is what the Queensland Auditor-General said.

Mr DAVID SHOEBRIDGE: I would urge you to read the identifiable limitations about that kind of data relied upon in the paper to which I have referred you.

Professor STURGESS: I understand the limitations.

The Hon. LYNDA VOLTZ: We have gone back and forth over this issue a number of times now. Can I go back to the delivery? We have talked about the cost savings, but I think the other side of that argument is what you are actually delivering.

Professor STURGESS: Yes.

The Hon. LYNDA VOLTZ: My concern is about places like Parklea, which had assaults on inmates at 423 out of 970. If assaults on inmates are running at around 20 per cent, that is significantly higher. In the figures we do get, in June the rate is 432 out of 839. The question is: When we are working these into the cost savings, how do we work in those flow-on effects? I accept that some of those come down to prison design. In the Hunter correctional facility where you have the dormitory-style prison, there are arguments about whether with people in cells are exposed to a higher risk of assault on inmates. How do you work all those into the benchmarking of the cost savings and wanting you are getting across the board?

Professor STURGESS: No, I have not. What is happening is that I am just chairing a committee for government. What is happening is that the Government is working through building, for the first time—I emphasise: for the first time—performance standards and specifying for, prison by prison, standards against which management will be measured. That is being done for the first time. At the same time there is an attempt to build and understand a cost base that matches that. This is a process which government is going through at the moment to attempt to construct some information that can be used as a way of assessing management. That process is underway.

The Hon. LYNDA VOLTZ: When it be factored into that kind of modelling? For example, earlier today we had Legal Aid that has had difficulty in accessing Parklea, in particular. I think there are design issues there, particularly with the watchtower as you are going in, and security getting people through.

Mr DAVID SHOEBRIDGE: The Five Ways, I think.

The Hon. LYNDA VOLTZ: When prisoners arrive, they can only process one prisoner at a time. Five others have to wait to get processed. I think these are design flaws. Are we doing efficacy against design? You might have a benchmark, but are there better benchmarks that we can achieve by redesigning some of our existing infrastructure to get better outcomes there, so that it is easier to benchmark? They are the kind of problems that you are seeing as you go through the prison system.

Professor STURGESS: One of the changes Queensland made many years ago was to build more prisons that were like each other and that makes benchmarking easier. I do not know whether that was done deliberately or not but it means then you can compare like with like more readily. Inevitably though you will have different cultural problems in a prison. At one time you will have a gang problem and not at another time. But the alternative to measuring and being sensible about measuring is not to have no measures. We have got to be able to benchmark performance. We have got to be able to challenge people to say "This prison is achieving 7.5 hours out of cell; you are not. Can we talk to you about why that is a problem?"

The Hon. LYNDA VOLTZ: Yes, "You're getting your people to medical attention within this time frame; you are getting them to the dentist in a certain time frame." I think the problem in New South Wales that I have picked up is that it is not anarchy in the prison system, it is a thousand shades of grey. There are so many complex issues that have to be dealt with: an ageing population, people with disabilities, mental health issues, drug rehabilitation, lack of education, people who need to be kept away from other prisoners and people from different ethnic groups. It is so complex that we need a range of prisons, some of which will need higher interventions.

Professor STURGESS: That is correct.

The Hon. LYNDA VOLTZ: Some need new pods and different types of intervention. They could be education and training intensive, not staff intensive but if those levels are not there you will not get a benchmark. How do you overcome that complexity to stop the recidivism?

Professor STURGESS: In the first part of the question, I think the important element of the better prisons work is that a relatively long period of time has been taken to go and talk to management, staff, unions, prison by prison and say, "Let's talk to you about what this means here now." It is not only that but one of the

other important elements is that the early interventions are not about whacking people who have not met performance measures; it is about having a conversation about what support they need in order to achieve those measures. The point of this has got to be to try to support people. They have got to understand that eventually if they cannot respond then management may be replaced but the point of the exercise is not to whack people and to feel good about having the media off their back. The point of the exercise is to try to help build capability in management within the prison.

Mr DAVID SHOEBRIDGE: You say it is not to whack people but I do not know whether you heard the evidence from the union earlier today but they said that as a result of benchmarking about 10 per cent of the workforce is to go, something in the order of 378 full-time equivalent positions are to go. They say in a pretty hard observation to meet, how can you be chopping 10 per cent of our workforce on a benchmarking process when the prison population has been expanding by 50 per cent since 2011? That sounds to me like it is starting with a whack and a really bad way of kicking off a benchmarking process. I am giving you the opportunity to meet that evidence.

Professor STURGESS: You will have to get the precise numbers out of Corrective Services: I do not have them.

Mr DAVID SHOEBRIDGE: The figure of 378 is precise.

Professor STURGESS: Well, except the reduction in numbers is of situation normal. There are additional numbers being put in for the additional staff, and there are additional numbers being put in for the work around reducing recidivism. What you need to do is look at the total numbers. I cannot give you those. You will need to get those from the department. But that is not a correct description of what is occurring. It is a reduction on the status quo but with additional prisoner numbers being additional positions for that, and then additional positions again for people working in programs. It is a much more complex story than that would seem to be.

Mr DAVID SHOEBRIDGE: I understand that additional resources are being provided as prisoner numbers increase but I put it to you again, if you want a benchmarking process to start, you bed it down with one of your key stakeholders, the union, and the staff on board. Starting with a 10 per cent cut in staff numbers is almost certainly a way of pissing everybody off and making it not work. How do you respond to that?

Professor STURGESS: Because when you are challenging people to do things more efficiently, and that includes an uplift in services. I mean the other thing that is going on is, if I can say, there are also more hours out of cell and all those sorts of challenges so it is not just cutting, it is also asking things to be done better.

Mr DAVID SHOEBRIDGE: Doing more with less?

Professor STURGESS: Yes. That is called efficiency.

Mr DAVID SHOEBRIDGE: If you are also trying to bed down a benchmarking process if it starts off with that institutional rancour it is not going to work.

Professor STURGESS: To my knowledge, and you can talk to Corrective Services about this, the union has signed off on every one of the benchmarks so far.

The Hon. SHAYNE MALLARD: I found your submission informative. In terms of benchmarking, the peg you put on the wall—and I understand it has been modelled for each institution because as the Hon. Lynda Voltz there are complex sets of issues at each institution—what about rehabilitation, reduced recidivism rates and lifting educational standards? How do you benchmark them? Is it by institution, across the board or collective groups?

Mr DAVID SHOEBRIDGE: And particularly given people are churned through the system. This institution may be responsible for someone for three years and that one for six months.

Professor STURGESS: That is correct. The attempts coming out of the payment-by-results experiment in the United Kingdom, some of which were social benefit bonds and some were not, while Peterborough had the first social impact bond in the world, was really promising. It actually delivered a significant improvement in reductions in recidivism rates within a band. We still do not know a lot about that. As you say there is the difficulty that the prisoners are, for the sake of them and the system, moved around and so it is difficult to hold any one institution accountable.

Mr DAVID SHOEBRIDGE: Are you going through a benchmarking process where the times spent in institution is relevant?

Professor STURGESS: No, because they come down to operational questions. The decision that has been taken in New South Wales is not to measure the outcomes but to measure the contribution being made within each institution. For a whole lot of those that is a stretch. We have got an uplift to do in terms of hours of purposeful activity in terms of not just measuring did they turn up at a class but did they actually graduate if you like. Did they do well in that class? Again there is a bootstrapping exercise that has got to be done to lift the standards. If you look at John Moroney prison which is a market tested prison where the in house team won the competition, that is a remand prison and there were no case plans and there were no recidivism programs for remandees. There are now.

Firstly, there is a measurement of: Have they got a case plan? That is a very low input but we have not even had that up until now. So that has to be lifted gradually and I think around the world, or at least around the English speaking world, we still have so much to learn about what makes the difference; what contribution makes the difference to reducing recidivism, the black box approach which was being applied with the social impact bonds and the social benefit bonds, as we call them here. You really are buying a black box because we do not know how many inputs of—

Mr DAVID SHOEBRIDGE: It is a program based on hope.

Professor STURGESS: Yes. I think the right approach is for government, if you like, to take the risk on that for the moment and to begin to specify not just did they turn up at class, although that can be a useful measure because motivation and other things will be lacking, but are they actually staying in that class and developing some reading and writing skills?

The Hon. SHAYNE MALLARD: When the Minister was first appointed I know he was a strong advocate for lifting basic literacy skills in the prison population.

Professor STURGESS: Yes.

The Hon. SHAYNE MALLARD: I do not want to reopen the conversation around data but the Committee has heard evidence today that we do not have a lot of data from the private sector operated system. Do you advocate more transparency of the data so that comparisons can be made?

Professor STURGESS: The Government, and the public sector, has made a commitment that the performance of these benchmark standards will be made public. That needs to be done carefully and it needs to be done responsibly because in the early stages we will be sorting out the measurement system for these sorts of differences that have been referred to. So while there is that commitment—and I am a great supporter of making all of this data public—we have to contextualise it and be careful that we are not just highlighting a difference between two different prisons rather than—

The Hon. SHAYNE MALLARD: And stigmatising the prison population.

Professor STURGESS: Yes. So it has got to be done intelligently, but the Government has a stated commitment to make this information available for public and private.

Mr DAVID SHOEBRIDGE: I hear the argument about having second-order measures such as time out of cells, attendance at class, because of the disparate nature of the prison system and also the churn through the prison system, but do you agree that that kind of second-order data is also going to have to be tested as to whether or not you are getting the right data by having the kind of primary outcomes also tested at the same time, and that is recidivism, health and those other outcomes you want from Corrective Services, and they will have to go together so you will know whether or not the second-order data that you are getting and performance measures are having the outcomes you want? Is that the process that has been happening in parallel?

Professor STURGESS: The difficulty is that of course the responsibility for reducing recidivism goes outside the prison gate as well. So you need to then be thinking about those total interventions. It becomes complex, but yes, you are absolutely right, we ought to be tracking recidivism rates for the system and cohorts.

Mr DAVID SHOEBRIDGE: Do you agree that you should be tracking that data in the same time frame so you can compare whether or not what you are doing in benchmarking and finding out all those second-order data points, whether they are the kinds of things that are working to produce the first-order outcomes that you want, which is reduced recidivism, increased health, better post-release engagement?

Professor STURGESS: I agree. We are coming off a low base.

Mr DAVID SHOEBRIDGE: You are going through the benchmarking process doing that second-order data, and I hear your arguments for it. Are you comfortable that there is first-order data being collected at the same time that is going to make sure you are getting that?

Professor STURGESS: I think you would have to talk to probably the Department of Justice, the Attorney-General's Department, because it is a much bigger question. I know there is a great deal of work being done at that level, looking at the system level data; it is well beyond the things for the committee that I chair.

The Hon. SHAOQUETT MOSELMANE: Going back to the issue of the competition contestability, there were factors that challenged operators to perform better. Are there any other factors that can make operators perform better in delivering services and so forth? For example, Legal Aid mentioned earlier the role of oversight organisations such as the Auditor General, the Inspector of Custodial Services, Corrective Services and the Ombudsman and that they can be vehicles that would move these organisations or public or private operators to improve the services.

Professor STURGESS: I think there is a whole lot of things that come into play here and you have got to think about it as a system, not merely as the components. One of the issues is that historically prison governors in New South Wales were not managers, they were just supervisors, so they had rostered days off and they were not trained in how to be a manager. There is no training. There has been, there is one being built now, but there have been no training programs for prison governors as managers of the system. There is not anywhere in Australia and, as much as I have been able to check, I do not know that there is anywhere in the English-speaking world.

Up until now, and it is not a criticism of these men and women at all, they have not been managers and they have not been given the authority to manage and they were not trained to be managers, so we have actually got to do that. Somebody has to be taught how to address that sort of range of human relations, rostering, budgetary and risk management issues that a manager of an institution like this would be responsible for. So there is an element. My concern about whacking is that it is just too easy, if you like, to let off the nuclear bomb to sort of when there is an issue go to the extreme solution. What almost all of these people will need in the early stages is early indications that they are struggling and that they are not performing, and the early interventions ought to be to step in and try to help build either their management capability or the capability of their team, because it is never just the governor, it is a team. So that capacity to know early that these people are struggling on a particular problem and to be able to step in and reinforce and build is extraordinarily important. So one of the benefits of good-quality benchmarking, but nuanced benchmarking, is that you are getting early information that these people are struggling or they may be struggling and we need to go and look at it more closely.

Mr DAVID SHOEBRIDGE: What steps are being done, as far as you are aware, to build up that support team that is obviously going to have to go with the early rolling out of the benchmark? Are there a bunch of high-quality management tools and intervention teams being brought together now?

Professor STURGESS: Yes, there are. You will have to get that from Corrective Services, but yes, they have developed a management training program and a program for building the leadership capability of the next layers down so that—

Mr DAVID SHOEBRIDGE: But training programs are different to what you were talking earlier about, an intervention—having someone to go in and help. That is what I am asking you about.

Professor STURGESS: Yes. It is very early days. The benchmarking program is still being rolled through; they have not completed all of the prisons. So the earliest of the measures are now coming up and the way in which that is responded to will be developed over the course of some time. But the intention is that people will be put through these training programs and assessed, obviously, which is part of that process, and the way that the people who do those internal inspections within Corrective Services operate, as best as I understand—I am not there as an insider—is that they are looking at and will be looking much more closely at those sort of indicators of performance and offering that support. But this is just ahead of us, it is just coming.

The Hon. SCOTT FARLOW: One of the observations you made in your submission was that we have been focused traditionally on the inputs into the system and contracting allowed to focus on the outputs. Would you say that this benchmarking process as well is trying to achieve that within the system in focusing on the outputs?

Professor STURGESS: As I explain it, benchmarking is an attempt to avoid the necessity of outsourcing things. In this day and age it is not possible to defend the proposition that resources should be given to any part of government without some confidence that you are getting results that are commensurate with those resources. Where John Morony was market tested, I think the really important decision to allow an in-house bid had only ever been done once before in Australia. I think the really exciting and encouraging result is that they produced the best bid, and from what we know from the early results they are doing a terrific job. That is really encouraging and sends the message that there is no reason why the public sector cannot do this as well

as the private sector, that there is nothing inherently superior to the private sector. The benchmarking work is about trying to understand, without market testing everything, how do we begin to improve and get confidence in and give Treasury confidence in and Cabinet confidence in the fact that these investments are justified, are worthy of making because they will produce a good result?

The Hon. SCOTT FARLOW: In one of your responses previously you said that some of the later instances of outsourcing in the UK had gone too far. What is going too far? What does that look like? What has happened there?

Professor STURGESS: In that particular case the last one or two of the old PFI prisons as they were called—private finance initiatives—they sort of struggled to deliver. Some of the early PFI prisons were actually—

The Hon. SCOTT FARLOW: Did they struggle to deliver because the outcomes that were set for them were just unobtainable?

Professor STURGESS: They did not get the quality price mix. Now—I alluded to it—last year I put out a report in the United Kingdom [UK] warning that if government did not change its behaviours there were going to be some very, very serious disasters in the public service market in the UK—I am just in the process of signing off my role as a specialist advisor to the Public Administration and Constitutional Affairs Committee in the UK, which has produced a report very critical of that—and that happened. I gave evidence earlier in the year for a couple of hours to that committee. Contracting was misused. Contracting is an extraordinarily powerful tool for driving down cost—it is very, very, very good at that. Even in the best of times you have got to have countervailing forces to strain back on quality, to make sure that that process is not compromising quality.

Over time, and particularly in the last seven years in the UK, those countervailing forces just lost their capacity to pull back and, for example, the probation market, which was introduced by the current government in the UK five years ago, they just announced last week that they will be winding that up. It was just done badly. In any of these things, benchmarking can be horribly misused too. If any of these things get turned into mechanical tools that are obsessed with price then you will get unfortunate results. There has always got to be a very high level of concern and conservatism about that, making sure that you are balancing price and quality.

Mr DAVID SHOEBRIDGE: But is there not a particular concern—and it is raised in the public debate on prisons—that if you put a profit motive into something as contentious as the prison system where the individuals have no bargaining power, they are completely subject to the control and power of a private operator operating under a corporate structure with a focus on profit, that is where you will have some of the greatest risks in contracting and that makes it one of the hardest areas to contract out, even assuming you agree there is a role for it?

Professor STURGESS: That was my starting point on this. I was in the UK through the Labor years and what happened—I refer to it in the report and I have got some long quotes in there—is that Labor used contracting quite differently. While they certainly used it to save some money, they used it to drive what they called their decency agenda. They used it as a deliberate mechanism to lift quality and to change the culture of the prison system. So used well that incentive can be a powerful tool for innovation, and in that case it was. I have provided several examples of some of the innovations on the quality side, on the treating the prisoners better side in the UK. So there is a need always to be cautious, but done well—as I said, I was watching it being done pretty well in the UK in those years and they used it to make the prisons more humane.

Mr DAVID SHOEBRIDGE: I will finish with an observation that you can agree or disagree with. The submissions in the public domain that this Committee has received and the data we have received from Parklea, I put it to you would be an example of it being done badly, with high assault rates, high complaint rates, pretty much universal disquiet with the way that prison has operated. What is your position on that?

Professor STURGESS: I have read the submission made by Corrective Services NSW. It is, as you know, a very complex prison—one of the most complex prisons in this State. I think the question of whether it is performing proportionately or significantly worse than its close comparative within the publicly managed prisons, I think that evidence is complex. Has it been done particularly well? Parklea was not contracted with the objective of making it a more humane place.

The CHAIR: Is the opposite true?

Professor STURGESS: I do not think anyone set about to make it less humane. I just do not know—I was out of the country at the time but I am aware of some of the comments made by people who were observing it closely at the time—that any effort was made to lift the humanity of the system. I think it is always better if

instead of going for the cheapest price you can get that you are actually striving to make the place better. I think that is a better situation.

The CHAIR: Thank you very much for your evidence today. It has been very illuminating.

(The witness withdrew)

The Committee adjourned at 15:05