



The Honourable David Elliott MP

Minister for Counter Terrorism
Minister for Corrections
Minister for Veterans Affairs

Mr David Blunt
Clerk of the Parliaments
Clerk of the Legislative Council
Parliament House
Macquarie Street
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Dear Mr Blunt

Please find attached the NSW Government Response to the Parklea Correctional Centre and other operational issues report no.38 published on 21 December 2018 by Legislative Council, Portfolio Committee No. 4 – Legal Affairs.

Yours sincerely -

David Elliott MP
MINISTER FOR COUNTER TERRORISM
MINISTER FOR CORRECTIONS
MINISTER FOR VETERANS AFFAIRS
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NSW Government Response to the Inquiry into Parklea Correctional Centre and other operational issues

On 21 December 2018, the Legislative Council Portfolio Committee No. 4 – Legal Affairs (the Committee) handed down its report (the Report) of the Inquiry into Parklea Correctional Centre (Parklea) and other operational issues.

Throughout the 13-month Inquiry, the NSW Government through Corrective Services New South Wales (CSNSW) and the Justice Health & Forensic Mental Health Network (JH&FMHN) provided detailed information and other willing support to assist the Inquiry. CSNSW facilitated visits to nine correctional centres including the two rapid build prisons, Hunter and Macquarie Correctional Centres and the two privately operated centres at Parklea and Junee.

The Government notes the Report's criticisms of management and oversight systems for Parklea Correctional Centre, and its acknowledgement that deficiencies in the contract entered into in 2009 significantly contributed to challenges at the prison.

Finding 3 in the report is firmly rejected by the NSW Government. CSNSW has the most robust governance mechanisms in place of all Australian correctional jurisdictions to manage and oversee private prison operators and is enhancing these. Significant evidence of this was provided to the committee by CSNSW and as such, the finding is not substantiated. In a dissenting statement in the Report, committee member the Hon Trevor Khan MLC notes this finding is unjustified.

The NSW Government and CSNSW consider that effective governance is essential for the management and oversight of the mixed model of publicly and privately operated prisons in NSW. The State, through CSNSW, is always ultimately responsible for the operation of all correctional centres – that responsibility cannot be contracted out to a private operator.

The new management contract that will apply to Parklea when it transitions to the new operators on 1 April 2019 includes much stronger provisions to hold the operator accountable and facilitate CSNSW's oversight and ability to intervene. These contracting arrangements also apply to Junee Correctional Centre and will commence once the expansion currently being built opens. The same contracting model will also apply to Clarence Correctional Centre when it opens in 2020.

The Government is pleased that the report acknowledges the "vast improvements" in this new contract, which are expected to remedy the deficiencies of the previous contract and significantly increase the operator's accountability.

The new contracting arrangements are part of an overarching performance framework, applying to both publicly and privately operated facilities. This will give greater transparency and capacity to monitor performance across the entire correctional system, with the aim to continuously improve security and community safety, as well as inmate safety and rehabilitation.

The development and implementation of the performance framework is being overseen by an independently chaired, inter-agency committee.

The Government is also pleased the Report has given a favourable assessment of the design and operating model in the two Rapid Build Prisons. As noted in the Report, early data on key indicators such as assaults and use of force show the two Rapid Build Prisons performing very strongly.

The NSW Government also notes the Committee's overall positive consideration of the CSNSW benchmarking program, which is designed to increase transparency, improve accountability and lift performance across publicly run correctional centres.

The following table responds to each of the Report's recommendations. The majority of actions recommended are either being undertaken or were already planned.

Recommendations

Recommendations	Response
<p>1</p> <p>That in the interests of transparency and accountability to the public, the NSW Government publishes the contracts for all privately operated prisons in full, apart from those parts which may compromise the safety and security of the correctional centre and place the public at risk.</p>	<p><i>Supported in principle</i></p> <p>The new contracts for Junee and Parklea Correctional Centres are available on the Department of Justice website: www.correctiveservices.justice.nsw.gov.au/Pages/CorrectiveServices/related-links/doing-business-with-csnew/class_3_contract_documents.aspx.</p> <p>The Parklea contract will take effect from 1 April 2019 with the commencement of the new operator.</p> <p>The new contract model also applies to Junee Correctional Centre and will commence once the expansion currently being built opens.</p> <p>In the interest of transparency and accountability CSNSW has made more of the contracts publicly available than ever before. The content includes details around key performance indicators (KPIs) as well as charge events which are published in dollar value amounts.</p> <p>Additional information on the existing contracts for Parklea and Junee were made available on the Department of Justice website during 2018.</p> <p>Information that could compromise the safety and security of the facility has been redacted from the contracts. For example, staffing numbers and deployment models are not made public for this reason.</p> <p>Commercially sensitive information such as the payment mechanism and sensitive information pertaining to the operator has also been redacted.</p>

Recommendations		Response
		The total estimated cost of current and future contracts is available on the NSW e-tendering site www.tenders.nsw.gov.au .
2	That by the end of 2021, and again in 2023, the Minister for Corrective Services table in Parliament a report by Corrective Services NSW on the implementation and effectiveness of its performance framework, the lessons learned and future improvements to be made.	<p>Noted</p> <p>CSNSW is committed to continuous improvement and is closely monitoring the implementation of the new performance framework and will continue to scrutinise its effectiveness.</p> <p>CSNSW report regularly to the Minister for Corrections on the implementation, effectiveness, lessons learned and future improvements of the new performance framework.</p> <p>In addition, the development and implementation of the new performance framework is overseen by an independently chaired, inter-agency committee who will consider the effectiveness of the performance framework.</p> <p>Before information is publicly disseminated assessments will be made of potential impacts on the security and safety of operations.</p>
3	<p>That Corrective Services NSW, in its report on the implementation and effectiveness of its performance framework, specifically consider:</p> <ul style="list-style-type: none"> the effectiveness of its new contract for Parklea Correctional Centre 	<p>Supported in principle</p> <p>CSNSW supports transparency and accountability in government decision making. The implementation and effectiveness of the new performance framework will be closely monitored and evaluated to support continuous improvement.</p> <p>This work is being overseen by an independently chaired, inter-agency</p>

Recommendations	Response
<ul style="list-style-type: none"> • how adequately the characteristics of individual centres have been recognised and accommodated within the framework • how well the key performance indicators have captured the dynamics of prison life and the experience of inmates • any evidence of the erosion of standards • any evidence of adverse outcomes from staffing changes during the benchmarking process, such as greater risks to staff and inmate safety • the effectiveness of interventions with those prison governors whose centres are identified as underperforming • potential improvements to encourage and measure reductions in reoffending • any further steps to be taken to enhance accountability across the public and private corrections systems. 	<p>committee.</p> <p>The Department of Justice Annual Report includes information on key areas such as reductions in reoffending, the performance of privately managed prisons and the publicly run prisons, as well as major reform initiatives such as the implementation of the performance framework.</p>

Recommendations		Response
	<ul style="list-style-type: none"> the private provision of health services at Parklea Correctional Centre 	
4	<p>That Corrective Services NSW incorporate performance reviews for all correctional staff into its performance framework by December 2019, to improve service delivery.</p>	<p><i>Supported in principle</i></p> <p>In line with the <i>Government Services Employment Act 2013</i>, individual performance plans for correctional staff are being rolled out across the state via the NSW Department of Justice's myPerformance framework.</p> <p>The myPerformance framework provides an easy annual process that:</p> <ul style="list-style-type: none"> implements plans for best performance supports individual's ongoing development aids in achieving professional goals recognises achievements identifies areas of potential development. <p>myPerformance is being rolled out to correctional centres across the state as part of the benchmarking program. CSNSW is on track to meet the 100% target that all correctional officers in centres have myPerformance plans in place by the end of 2019. Other correctional staff will commence the myPerformance process progressively from 2019.</p> <p>CSNSW supports individual performance planning and development reviews for all staff, however, individual performance plans are not incorporated into the performance framework.</p> <p>The performance framework is designed to monitor and track the overall performance of publicly and privately run correctional centres in NSW. In their</p>

Recommendations		Response
		current form the outcomes and key performance indicators will capture the cumulative impacts of individual staff performance.
5	That the NSW Government ensure that each of the defining features of the rapid build dormitory model, including its structured day, extensive security, high staffing levels and careful selection of inmates, remain for the life of these prisons.	<p>Supported in principle</p> <p>The NSW Government supports the use of the structured day, extensive security, high staffing levels and careful selection of inmates at the two rapid build prisons in NSW. There are no plans to change these defining features of the rapid build prison model.</p>
6	That the NSW Government ensure that the employment and training elements of the rapid build dormitory prisons' structured day be meaningful, with the long-term purpose of equipping inmates for life in the community, and that these remain for the life of these prisons.	<p>Supported in principle</p> <p>The NSW Government supports the rehabilitation of all offenders as part of its commitment and significant investment to reduce reoffending. Employment and educational services currently available aim to provide meaningful employment and training and education services that equip inmates with skills needed following their release.</p> <p>There are no plans to make any changes to the employment and training features of the rapid build prison model.</p>
7	That, with respect to the evaluation of the rapid build dormitory prisons, Corrective Services NSW: <ul style="list-style-type: none"> formally engage the input of an 	<p>Supported in principle</p> <p>Corrective Services NSW is closely evaluating the impacts of the two rapid build prisons.</p>

Recommendations		Response
	<p>independent research body, to ensure impartiality</p> <ul style="list-style-type: none"> include detailed information gathered from the perspective of both inmates and staff. 	<p>Corrections Research Evaluation and Statistics (CRES) is a specialist unit with the Department of Justice that provides expert analysis and evaluations of policies and programs within the correctional system. CRES has embarked on a longitudinal impact study that will use quantitative and qualitative data to explore five key areas of the rapid build dormitory prison model:</p> <ul style="list-style-type: none"> Social climate Operational outcomes Purposeful activity Cost/benefit analysis Reoffending outcomes <p>The evaluation framework developed for this study includes capturing the experience of inmates and staff via interview and survey. Staff and inmates completed baseline surveys when the facilities opened and will be surveyed at six-month intervals. The initial period of evaluation is 12 months.</p> <p>CSNSW is open to independent research but has no current plans to commission such work.</p>
8	<p>That the Minister for Corrective Services table all evaluation reports on the rapid build dormitory prisons in Parliament within one month of receipt.</p>	<p>Noted</p> <p>CSNSW will provide evaluation reports on the rapid build prisons to the Minister for Corrections.</p> <p>Before information is publicly disseminated assessments will be made of potential impacts on the security and safety of operations.</p>
9	<p>That Corrective Services NSW investigate</p>	<p>Noted</p>

Recommendations		Response
	and implement ways to better mitigate the problem of the noise in the rapid build prison dormitories.	<p>Noise attenuation strategies were given significant consideration during the design and construction phase of the rapid build prisons. A number of structural mitigations were built in as well as careful selection of materials used for the internal fit out. Additionally, the televisions in each cubicle can only be used with headphones to reduce background noise.</p> <p>At the end of December 2018, Corrective Services NSW had not received any complaint from inmates in either of the two rapid build prisons that cited noise levels as an issue.</p> <p>Should noise levels become a problem in future, CSNSW would consider further mitigation strategies as appropriate.</p>
10	That the NSW Government implement the structured day model that currently operates in the rapid build dormitory prisons, with meaningful employment and training programs across the prisons system.	<p>Supported in principle</p> <p>CSNSW operates a structured day model across all correctional facilities, incorporating meaningful education and employment options. The length of the structured day and the types of employment and programs available at each facility vary according to the specific role and function of the centre as well as the inmate cohort.</p> <p>Historically, CSNSW has one of the highest employment participation rates in Australia. Overall, in 2017-18, 87.7 per cent of eligible inmates were engaged in employment across NSW correctional centres.¹ In the same time period 98 per cent of inmates had their educational needs assessed to provide appropriate options.²</p>

¹ Data provided by Corrections Research Evaluation and Statistics (CRES).

² Data provided by CRES.

Recommendations		Response
		<p>The length of the structured day and range of employment and training programs offered in the rapid build centres is specific to the dormitory model. In addition to the rehabilitative benefits, the extended day is a key mitigation strategy to manage the risks associated with dormitory style accommodation.</p>
11	<p>That Corrective Services NSW report annually to the Minister for Corrective Services detailed information on the activities and observations of its contract monitors for privately operated prisons, and on Corrective Services NSW's own decision and actions in response to monitors' observations, and that the report be tabled in Parliament within one month of receipt by the Minister.</p>	<p><i>Supported in principle</i></p> <p>Monitors and CSNSW already have reporting obligations under the <i>Crimes (Administration of Sentences) Act 1999</i>. There are no plans to change existing legislative reporting requirements.</p> <p>Section 242 of the <i>Crimes (Administration of Sentences) Act 1999</i> requires monitors to report to the Commissioner on a range of activities and make observations on contractual compliance and operational matters. Issues of non-compliance or concern are raised to the Minister for review and decision.</p> <p>Under subsection 242(6) of that Act, information gathered by CSNSW on the performance of all correctional centres, including privately operated prisons such as Parklea, is included in the NSW Department of Justice Annual Report, and subsequently tabled in Parliament under the <i>Annual Reports (Departments) Act 1985</i>.</p> <p>Briefings by monitors and the response of CSNSW often contain highly sensitive information concerning security and related operational matters. Information gathered by monitors will continue to be assessed for potential implications for security and safety before publication.</p>
	<p>That the NSW Government resource the</p>	

Recommendations		Response
12	Inspector of Custodial Services to implement the state's obligations under the <i>Optional Protocol to the Convention Against Torture</i> via its inspections regime.	<p>Noted</p> <p>Implementation of the <i>Optional Protocol to the Convention Against Torture (OPCAT)</i> is being led by the Commonwealth Government, including setting the inspection and monitoring obligations of states.</p> <p>The NSW Government will continue to work with the Commonwealth Government to agree funding arrangements and roles and responsibilities.</p>
13	<p>The NSW Government:</p> <ul style="list-style-type: none"> • Review the performance, functions, powers and resourcing of the Inspector of Custodial Services, in order to enhance the effectiveness of that office. • Conduct the review in the first half of 2019 • Ensure that any resultant legislative changes are introduced to Parliament by the end of 2019. 	<p>Noted</p> <p>The <i>Inspector of Custodial Services Act 2012</i> (ICS Act) is due for statutory review, as it is five years since it commenced in August 2013. The review will be conducted by the Department of Justice in 2019 to determine whether its policy objectives remain valid and whether the terms of the Act remain appropriate for securing those objectives. Although the ICS Act does not contain an objects provision, the second reading speech outlines policy objectives for the legislation which will shape the review, including:</p> <ul style="list-style-type: none"> • The Inspector is to be an independent statutory role to provide external scrutiny of the standards and operational practices of custodial services in NSW. • The Inspector will monitor broader thematic and systemic issues arising out of inspection of adult and juvenile correctional facilities and services, while individual complaints and grievances are to be dealt with by the Ombudsman and other appropriate bodies. • The Inspector is to take a proactive rather than a reactive approach to improving custodial services so potential problems can be addressed before they become major issues.

Recommendations		Response
		<p>The recommendation to review the functions and powers of the Inspector should be considered by the Parliamentary Joint Oversight Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission. Under section 17 of the <i>Inspector of Custodial Services Act 2012</i>, the Joint Committee's functions include "to report to both Houses of Parliament any change which the Joint Committee thinks desirable to the functions, structures and procedures of the Inspector".</p> <p>The NSW Government would consider any recommendations from these reviews.</p>
14	<p>That the NSW Government, over and above its recent investment in mental health services and infrastructure from 2018-19:</p> <ul style="list-style-type: none"> • provide sufficient additional resources to the Justice Health and Forensic Mental Health Network to enable it to meet the health needs of the New South Wales prisons population, and their mental health needs in particular. • ensure that 60 more forensic beds are provided urgently • ensure that there is sufficient investment in other mental health infrastructure for the prison 	<p>Noted</p> <p>The NSW Government is continually enhancing the State's mental health services, including those in custodial and forensic mental health settings. The \$700 million Statewide Mental Health Infrastructure Program, announced by the Minister for Mental Health in 2018, includes additional forensic mental health beds.</p> <p>In response to recommendations of the 2017 review of the Mental Health Review Tribunal in respect of forensic patients, and the Law Reform Commission Reports 135 and 138, a cross-agency Forensic Working Group and Cognitive Impairment Sub-committee have been established. A suite of operational and legislative reforms of the forensic mental health system are currently being implemented.</p> <p>There is a recognised unmet need for non-custodial secure accommodation/treatment options for forensic patients who do not require a mental health pathway, such as those with cognitive impairment or</p>

Recommendations	Response
<p>population throughout the state.</p>	<p>personality disorder. The Cognitive Impairment Sub-Committee is considering the options for improving pathways for people with cognitive impairment.</p> <p>In addition to existing specialist mental health services in custody, the Justice Health and Forensic Mental Health Network (the Network) has increased its use of on-site visits and telehealth services - allowing more patients to be seen by mental health clinicians regardless of their location across the system. The Network also has a 24/7 on-call psychiatry service accessible by any site across the state, as well as a 24/7 mental health hotline number that staff, custodial patients or family and friends can call to seek advice from a specialist mental health clinician.</p>