

**Submission
No 11**

INQUIRY INTO PARKLEA CORRECTIONAL CENTRE AND OTHER OPERATIONAL ISSUES

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Date received: 7 February 2018

Submission to the Inquiry into Parklea Correctional Centre and other operational issues

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February 2018

Submission

As accounting academics at the University of Sydney and as authors of the most recent review of private prisons across Australia, we make a submission to this Inquiry.

Our submission engages primarily with part (f) of the Terms of Reference, namely:

(f) the appropriateness and operation of private prisons in New South Wales

Our submission also provides information relevant to part (a) and (d)

(a) The adequacy of staffing levels and staff safety

(d) Any possible contraventions of the contract between the NSW Government and the GEO Group

The Prison Privatisation Project

The committee may also be interested in accessing the data and our research project webpage: <http://sydney.edu.au/business/research/projects/prison-privatisation>

We faced significant challenges locating and accessing information about private prisons across the country. Much is not publicly available, and where it is, it is in a variety of places making it challenging to assess the sector. Given this, we have chosen to make the resources we use in our research available to the public on our research project webpage.

Executive Summary

Across the country, various forms of privatisation have emerged within the prison sector. At present, the NSW government is looking to improve the delivery of prison services through a contestability and commissioning model which it believes will optimise service delivery to the public. The “Better Prisons” plan involves testing the efficacy of greater private sector involvement within prisons. In our submission, we argue that there is a lack of evidence to support privatisation, and that there is no evidence that the broader policy goals of reduced costs, greater accountability and performance improvements have materialised in NSW.

In our 2016 study of prison privatisation, in each state with private prisons, we considered their performance of against these broader policy goals. Overall, we found that there is not sufficient evidence to support claims in favour of prison privatisation in Australia. While there is no uniform pattern that describes the experience of all states, any evidence of performance improvements and efficiency gains remains patchy and opaque; systems of accountability vary significantly; public reporting remains poor and inconsistent; and the total cost of private prisons remains unknown.

Our report was written before the 2017 events at Parklea that have prompted this inquiry, but our broader findings are useful as they suggest that private providers in NSW are not subject to sufficiently substantive forms of accountability, and that the tensions arising between costs cutting and service quality are experienced intensely within these prisons.

Based on our research, it is our view that privatisation has failed to deliver expected improvements in NSW.

Specifically:

1. Privatisation has eroded public accountability because of commercial-in-confidence protects private providers from transparency.
2. There is no convincing evidence that private prisons out perform their public-sector counterparts, especially in relation to cost effectiveness.
3. The ongoing costs of a contestability remain unclear, including those associated with the professional services required to mobilise the model and those related to risk sharing.

An appropriate level of information must be made available to policy makers, researchers and the public, to support the development of an accountable and cost-effective prison system and to optimise the effectiveness of services in NSW. However, we do not believe these outcomes require privatisation, especially where private providers are profit seeking. Instead, policies that support improvements in public sector prisons would deliver better outcomes for the citizens of NSW.

Consequently, it is our view that no further privatisations should take place in NSW, or in any other state.

Preamble

As noted earlier, this submission speaks to the appropriateness and operation of NSW private prisons. Our submission is structured as follows: we begin with a high-level comment on three key areas of concern – the effect of privatisation on accountability, performance and costs. For each, we make specific recommendations to the committee.

In addition to the main body of our submission, we have attached several appendices that provide detail that may be of interest to the committee.

1. Contracts

At the time of writing, the contracts for Junee and Parklea prisons are publicly available, but they remain heavily redacted. Critical information related to performance linked fees, KPIs and other measures used to establish good standards of service provision have been removed from the contract. This makes it impossible to assess the criteria used to measure the performance of these prisons.

The use of commercial-in-confidence legislation continues to present a significant barrier to public accountability.

1.1 Recommendation

- (a) Contracts between private prison operators and the state should be publicly available in their entirety.

2. Monitoring Arrangements

While there are monitoring arrangements embedded within contracts, little is known about how these work in practice. In addition, monitoring practices are not uniform across the current contracts or the sector more broadly.

2.1 Recommendation

- (a) Transparent and uniform monitoring arrangements should be in place to provide effective and comparable oversight across all private prisons in NSW.
- (b) Monitors should undertake their work onsite and the details of time spent at each prison should be publicly available.
- (c) All prisons should make use of a Community Advisory Council and any subsequent reporting should be publicly available.
- (d) Continue the Official Visitors Program throughout the sector.

3. Annual Reports

While annual reports are issued by the NSW Department of Justice, these provide little information related to the performance of prisons across the sector. In addition, information on the performance of individual prisons does not feature in the Department of Corrective Services annual report.

3.1 Recommendation

- (a) Reporting requirements across all prisons needs to be standardised and made available to the public.
- (b) The Department's annual report should report on the actual performance of private prisons against performance metrics.
- (c) These annual reports reports should also include qualitative discussions of performance based on data or observations collected by onsite monitors.

4. Independent Inspector of Prisons

The Inspector of Custodial Services, deals with the nature, processes and outcomes of incarceration and reviews conformity with KPIs set for prisons. As well as compliance with quantitative targets, attention is also paid to qualitative factors including workplace culture and satisfaction of prisoners' needs (see ICS-NSW, 2014 for an overview). This work provides important public accountability function.

4.1 Recommendations

- (a) Increase resources available to the ICS to ensure appropriate oversight.

- (b) Undertake and report publicly on the inspections at four prisons per year at a minimum.
- (c) Inspections should include routine discussions with custodial staff about working conditions and training.

5. State Ombudsman

The NSW Ombudsman handles prisoner complaints and as such, performs an important accountability function. This information is reported publicly for each prison, indicating which facilities have the highest level of complaints (see, e.g. Ombudsman-NSW, 2009: 149). As the Ombudsman's report categorises prisons in line with their security classification and not their management structure, it is difficult to draw any conclusions about the comparative nature of the prisoner experience in private and public sector prisons in New South Wales. The nature and pattern of complaints across the sector warrant further public disclosure.

5.1 Recommendations

- (a) Provide reports based on both security classification and management structure to facilitate comparisons.

6. Audit Office of NSW

The Audit Office of NSW have the power to conduct financial and performance audits. In 2016, such a review highlighted the unevenness of performance related requirements and information provision within the prisons sector, a finding that is in line with other independent inquiries (Andrew, et al., 2016). However, the contract between the NSW government and GEO prevents the Audit Office undertaking financial audits at Junee and Parklea. This makes it difficult to assess whether private prisons provide value for money, and whether public funds are used appropriately within these prisons. This lack of oversight has made it impossible to draw comparisons with public prisons.

6.1 Recommendation

- (a) Extend the powers of the Auditor-General to include "*follow the money*" powers like those in place in Victoria.
- (b) Undertake performance and financial audits of private prisons to support comparisons.

1. Cost of Contracts

The full cost of contracts is difficult to determine. Commercial-in-confidence protections means the exact structure of fees paid to the contractor is not publicly available. The costs do not appear as separate line item in the annual reports of the DCS despite these each representing a significant proportion of \$1.6bn spent on prisons.

1.1 Recommendation

- (a) The full contract should be publicly available, including cost, performance, and performance linked payment schedule.
- (b) The DCS should publish the performance linked fees paid to each provider and the basis for that decision in their annual report.

2. Cost per Prisoner per Day

Costs per prisoner per day is often used to compare prison costs across the sector. Without disclosing a clear costing method comparisons between public and private cost effectiveness remain opaque, especially given the methods used to allocate overheads are unclear (PAC, 2005: 24).

Overall, the availability and clarity of cost data for private prisons in New South Wales is poor. More transparency and clarity is needed before cost effectiveness could be used as a justification for further privatisation in New South Wales.

2.1 Recommendations

- (a) Develop a robust system for allocating overheads.
 - a. This would involve providing a clear list of departmental costs that should be shared across the sector, and explain why or why not certain costs are allocated to private providers – including the costs associated with market testing; tendering; contracting and so on.
- (b) Costs and performance should be considered together.
- (c) The focus should be on achieving cost efficiencies within the constraints of an individual prison (age of infrastructure, classification of prisoners and so on), rather than crude cost reductions.

1. Performance Measures

Minimum performance standards for the operation of private facilities are set out in the management agreement covering each prison. While these performance measures are listed on occasion (DCS-NSW, 2007: 120) these measures have changed over time (DCS-NSW, 2008: 124).

1.1 Recommendations

- (a) Develop minimum standards that are transparent, where possible, uniform across the sector to facilitate comparison
- (b) Develop appropriate KPIs for each prison. These should be the result of discussions with stakeholders at all levels, including prison staff, and they should include regular periods of review.
- (c) KPIs and performance against KPIs should be published annually.
- (d) Include the professional development of staff within KPIs.

2. Performance Outcomes

The partial and inconsistent disclosure of information makes it difficult to give a clear overview of the performance targets used, as well as the performance of private prisons in New South Wales. In some years, deficiencies at Junee were noted, such as a lack of managerial oversight of workers and staffing level issues (DCS-NSW, 2011: 127; DCS-NSW, 2012: 96). On some occasions, GEO received a lower performance linked fee, yet in other years the full performance linked fee was paid without justification (DCS-NSW, 2013: 83). For example, GEO failed to meet performance targets in 2005-2006, but that the PLF was awarded in full (DCS-NSW, 2007: 119).

2.1 Recommendations

- (a) Bring together the reported information into one annual report on the performance of private prisons.
- (b) Improve staff training and include performance metrics related to the professional development of staff.
- (c) Report performance linked fee payments against actual performance.

4. Innovations

The legislation that introduced private prisons into New South Wales was partly based on the assumption that privatisation of custodial services would lead to innovation (Roth, 2004: 30–31).

However, as far as can be known from the information disclosed by the DCS, the Junee and Parklea contracts do not contain specific bonuses for innovation.

4.2 Recommendations

- (a) Include requirements for innovations in contracts
- (b) Facilitate innovation across the sector and not just within the private system.
- (c) Encourage knowledge sharing across the sector rather than competition based on rankings and performance metrics.

Conclusion and Summary

Successive New South Wales governments have held the view that the commercial sensitivities associated with private prison contracts necessitate confidentiality and these commercial-in-confidence protections have limited the scope of public oversight.

In terms of accountability, New South Wales performs poorly. The New South Wales government's reluctance to make contracts available to the public has made public oversight difficult. To some extent this is mitigated using contract monitors, but the arrangements in place for these monitors is opaque and their reports are not publicly available. It is difficult to determine how contract monitors undertake their duties and whether they are onsite with the regularity required to provide proper oversight. Other forms of oversight, such as the DCS annual report, provide some information about private prison performance, but cost information is aggregated across the sector, which means that assessing costs difficult. In New South Wales, the State Ombudsman handles prisoner complaints, and they report the data prison-by-prison, making it easier to determine the pattern of complaints across the sector. It is apparent from this data that the level of prisoner complaints in private prisons in New South Wales is considerably higher than those in public prisons, something that warrants further investigation. In addition, the Auditor-General of New South Wales reports regularly on the performance of prisons in the state. In terms of costs, there is no evidence that New South Wales private prisons are cost-effective. Using other reporting structures available to the public of New South Wales, such as the DCS annual report, it is possible to determine that New South Wales's private prisons cost approximately \$80 million per year, but we know little about how private providers use these funds to deliver both a service to the public and profit to their shareholders. And whilst some information is available regarding PLFs, and the costs per prisoner per day in New South Wales, the assumptions underlying both the payment structure of PLFs and the calculation of costs are not publicly available.

In terms of performance and efficiency, there is no evidence to suggest private providers are more efficient or better performing in New South Wales. This is partly a feature of the lack of performance-related information in the public domain. If we rely on the government's own assessment of prison performance, as indicated through PLFs paid to prisons, we are presented with a mostly positive picture. In New South Wales there have only been a few occasions when the performance bonuses were discounted (7–10%) for mismanagement. In most years the PLFs were paid in full, yet in these same years media reports of escapes and unusually high numbers of deaths in private prisons raised serious questions around prison performance. These concerns are also apparent in the annual reports of the Ombudsman who noted that private prisons consistently received the highest number of complaints out of any prisons in the state. The apparent decoupling of performance and payment raises further questions about the effectiveness of contracts and their associated fee structures in New South Wales.

Despite clear lack of evidence to support the delivery of cost and/or performance transparency around prison performance, the New South Wales government has proceeded as if the private operators have performed at a high standard. As a result, the government has chosen not to re-tender the prisons to new contractors.

The general lack of information about private prison costs and performance in New South Wales makes a broader assessment of the impact the prisons have had on the sector difficult.

APPENDIX A

Background to privatisation debates in NSW

The public debate over prison privatisation in New South Wales has gone through at least three distinct phases, marked by government publications.

The first phase comes with the initial inquiry by the NSW Parliamentary Research Service, headed by Lenny Roth. Roth's (2004) Background Paper, 'Privatization of Prisons', considered the arguments surrounding private provision of custodial services, and the history of private prisons in New South Wales. This paper was issued during speculation that the Kempsey and Dillwynia prisons would be privatised (Roth, 2004: 2). However, these privatisations did not in fact take place, following negotiations between the DCS and the Prison Officers' Union. These negotiations formed part of the process of implementing the 'Way Forward' in New South Wales prisons, which is covered in more detail below. The second phase of the public debate comes from the 'Value for Money from New South Wales Correctional Centres' inquiry, organised by the Public Accounts Committee of New South Wales and concluding in 2005. For this inquiry, the Public Accounts Committee wrote to stakeholders requesting input, and received seven responses (PAC, 2005: 2). The third phase of the public debate comes from the General Purpose Standing Committee No. 3 discussion, 'Inquiry into the Privatization of Prisons and Prison-related Services', which concluded in June 2009. This third phase of public debate covered a specific set of policy recommendations, concerning the privatisation of Parklea and Cessnock prisons. Unlike previous discussions of prison privatisation, the General Purpose Standing Committee inquiry included a broad range of stakeholders and interested parties. The inquiry received 453 submissions, including 180 from prison staff and 44 from organisations. Because of this public debate, only Parklea prison was given over to private management. At 2017, Cessnock continues to be managed by the public sector.

More recently, the NSW Liberal government s announced their "Better Prison" plan to improve the delivery of prison services. This improvement plan is set against a broader policy backdrop that promotes greater contestability and commissioning as a mechanism to optimise service delivery to the public. The "Better Prisons" plan involves an intensification of calculative practices within prisons, including setting detailed performance targets; allowing prison managers to control their own budget; and the progressive rolling out of benchmarking over the next few years.

APPENDIX B

A. Additional information: Privatisation and Accountability in NSW

New South Wales's private prisons have had varying levels of accountability and transparency over time. The 2004 Background Paper 'Privatisation of Prisons', produced for the New South Wales parliament, lists five institutions with oversight of prisons in the state. These include the Auditor-General's annual reports, reports from prison monitors, reviews by the Department of Corrective Services, the Ombudsman's annual reports, and the Inspector-General's annual reports (Roth, 2004: 68). However, not all of these sources make their data directly available to the public, and not all have existed for the whole duration of private prison management in New South Wales.

1. Contracts

The use of commercial-in-confidence legislation has been a significant barrier to 'external' accountability from Corrective Services New South Wales to the general public. Where private contractors have been used to provide prison services, FOI requests may be blocked on the basis that they breach commercial-in-confidence agreements. Commercial-in-confidence is intended to keep information, including operating costs, out of the public sphere where its disclosure would impact upon competition.

2. Monitoring Arrangements

The contract for Junee Correctional Centre includes provision for an onsite monitor, but the government has not always taken up this option. During the initial contract period, the Commissioner of Corrective Services decided that an onsite monitor would only be required for the first six to 12 months, moving offsite thereafter (Harding, 1997: 44–45). Subsequently, the Public Accounts Committee's 'Value for Money' inquiry of 2005 noted that the Junee monitor was also responsible for the Mid North Coast, Dillwynia and Wellington prisons. Therefore, the monitor was not fixed to a single site as is the case in Western Australia.

The management agreement for Junee prison also includes a role for a community advisory council, providing oversight on the running of the prison and making quarterly reports to the Minister for Justice (see Roth, 2004: 34). However, these reports are not publicly available.

At present the private operator for both Junee and Parklea (GEO) collects data every month and submits a high level reports to the monitor. These reports are verified by the monitor, and the monitor is also able to access facilities, data and personnel to provide further oversight.

The General Purpose Standing Committee inquiry of 2009 recommended onsite monitors for all private prisons (GPSC, 2009: 100). However, whilst the government monitors both Junee and Parklea, it is not clear whether each prison has a dedicated onsite monitor, or an offsite monitor shared between several sites, as under previous arrangements.

3. Annual Reports

Annual reports are a well-established and useful accountability mechanism available to government departments, private contractors and those fulfilling more specific oversight roles. While these are used to some extent in NSW, there is scope for considerable improvements.

For example, yearly reports on performance were included in the initial agreement for establishing Junee Prison. These were for a limited period of four years, beginning in 1994 and ending in 1999. The Department of Corrective Services New South Wales issued these reports and while these reports did not include an analysis of cost data, they did provide some information related to demographics and incidents at the prison. As noted above, the establishment of Junee prison also involved the creation of a corrective services monitor for Junee (Junee monitor), who reported directly to the Commissioner for Corrective Services. Elements of the Junee monitor report are included in each Department of Corrective Services Annual Report, and subsequently the annual reports of the different organisations of which Corrective Services forms a part (see, e.g. DCS-NSW, 2004: Appendix 21). However, the Junee Monitor Report only accounts for around two or three pages of the annual report each year, as a summary of the information reported to the Commissioner. The more detailed data that is

gathered by the monitor is not made available to the public. This information includes measures of performance against minimum standards, including such things as contraband, inmate hygiene and key control.

Likewise, when Parklea prison came under private management in 2009, a monitor was established for the prison and a summary of the Corrective Services Monitor for Parklea's Report to the Commissioner was included in the annual reports alongside that of the Junee monitor. As of 2010–2011, monitors began to operate at public as well as private prisons in New South Wales. However, monitor reports for public prisons are not presented in annual reports in the same fashion as for Junee and Parklea.

4. Independent Inspector of Prisons

Independent inspection of private prisons has been intermittent within New South Wales. In April 1997, the New South Wales Minister for Corrective Services introduced a bill to establish the Inspector of Custodial Services (ICS-NSW) to address those issues not already covered by the Ombudsman's duties. The ICS was duly created, with a review of the office scheduled for 2003. The ICS was discontinued following this review, which was carried out by former police commissioner John Dalton and former chairman of the Corrective Services Commission Vernon Dalton. Avery and Dalton recommended that the OIG be discontinued on the basis that many of its functions overlapped with the Ombudsman, a position which the government accepted.

Accordingly, New South Wales was left without an Independent Inspector of Prisons until 2012. The accountability of private and public prisons therefore declined in the intervening period, during which Parklea was established as a privately managed facility.

The Inspector of Custodial Services Bill 2012 re-introduced an Independent Inspector of Prisons, responsible for producing reports on each prison in the state. However, as of 2017 there are no reports on either Junee Correctional Centre or Parklea, as reviews of these prisons have been scheduled but have not yet taken place. Accordingly, whilst the accountability of private prisons in New South Wales may improve in the near future, a crucial form of oversight is still not in use.

Fiona Rafter was appointed as Inspector of Custodial Services in 2016, and remains in the position as of 2018. The OIG carries out both announced and unannounced inspections. In New South Wales, the framework for inspections is shaped to deal with the nature, processes and outcomes of incarceration; it is not limited to a review of conformity with KPIs. Although compliance with quantitative targets is important for inspections, attention is also paid to qualitative factors including workplace culture and satisfaction of prisoners' needs (see ICS-NSW, 2014 for an overview). Once an inspection has taken place, findings are reported to parliament (ICS-NSW, 2014: 5)

5. State Ombudsman

As with other states, the main source of oversight provided by annual reports from the Ombudsman is the collation of metrics on the level of prisoner complaints. The New South Wales Ombudsman produces annual reports that include information on all prisons in the state. In New South Wales, information about complaints within the custodial system is presented on each prison, indicating which facilities have the highest level of complaints (see, e.g. Ombudsman-NSW, 2009: 149). This may encourage private prison operators to treat inmates as stakeholders within the prison system, a practice that is likely to have mixed outcomes.

These reports have not been used to evaluate the performance or efficiency of private prisons, about the award of their PLFs or renewal of contracts. The Ombudsman's report categorises prisons in line with their security classification and not their management structure, so it is difficult to draw any conclusions about the comparative nature of the prisoner experience in private and public sector prisons in New South Wales. The nature and pattern of complaints across the sector warrant further study.

6. Auditor-General

Private prisons have featured in the annual reports of the New South Wales Auditor-General since at least 2002; however, evaluation of private prisons is not always a focus in the reports. From 2002 to 2004, the Auditor-General made attempts to compare costs between public and private prisons in New South Wales. However,

these annual reports are no longer publicly available online. The Auditor-General concluded that there were significant difficulties in comparing public and private prisons, a problem which led to the creation of the Public Accounts Committee inquiry 'Value for Money in NSW Correctional Facilities' in 2005 (see Public Accounts Committee, 2005: v).

The Auditor-General submits annual reports to parliament, and these may contain information about custodial services in New South Wales. The overall performance of Corrective Services NSW is mentioned in the 2004-2005 annual report, and the performance of Corrective Services in managing assets is covered in the 2005-2006 report. The 2009-2010 and 2010-2011 reports both mention Corrective Services, but only regarding home detention, which is not privately managed. The 2013-2014 annual report of the Auditor-General mentions a forthcoming framework for the performance of maximum-security prisons, which would include the privately managed prison at Parklea (AG-NSW, 2014: 33).

7. Additional Factors in Accountability

As noted above, two public discussions of prison privatisation in New South Wales have provided additional oversight and scrutiny of private facilities. These are the Public Accounts Committee's 'Value for Money in NSW Correctional Facilities' inquiry of 2005, and the General Purpose Standing Committee's 'Inquiry into the Privatisation of Prisons and Prison Related Services' of 2009. The former inquiry concluded that New South Wales should maintain '... at least one private prison in the State for the purposes of benchmarking the performance of publicly operated centres and to encourage the development of innovative management techniques' (PAC, 2005: vii). The General Purpose Standing Committee's inquiry made a variety of recommendations, including the re-establishment of an Independent Inspector of Prisons, onsite monitors at all New South Wales prisons, and that the Department of Corrective Services make public the methodology used to establish the costs of public and private prisons in the state (GPSC, 2009: xviii-xix).

Submissions to public discussions made by private contractors have been censored, so that confidential and commercially sensitive information is not disclosed (see, e.g. GEO, 2005). This means that the public debate has not allowed full scrutiny of arguments in favour of privatisation made by the state government and private sector entities.

B. Additional information: Privatisation and Costs in NSW

1. Cost of Contracts

In its submission to the Public Accounts Committee inquiry into 'Value for Money' in New South Wales prisons, GEO disclosed that the cost of contract to the New South Wales government for Junee Correctional Centre was \$22,232,768 in 2005 (GEO, 2005: 5). As at 2015, this information was the most recent statement of the cost of contract for Junee.

The DCS annual report of 2010–2011 indicates that the combined cost to the state of the Junee and Parklea contracts (both fulfilled by GEO) comes to \$80 million per annum (DCS, 2011: 339). However, it is not clear how this figure breaks down across the two prisons, nor upon what levels of occupancy or performance it is based.

As the NSW Treasury budget figures list expenses of \$691.2 million for Custody Management in 2010–2011 (Treasury-NSW, 2011: 5), we can see that the contracts for Junee and Parklea combined make up 11.57% of the total budget for incarceration in New South Wales. For context, these two private prisons incarcerated 14.8% of inmates in New South Wales for 2010–2011 (Productivity Commission, 2014: Table 8A1). While this may suggest the prisons are low cost relative to others in the state, but we don't know enough about the payments and the performance expectations to make any such assessment.

No other information about the cost of contract for Junee or Parklea has been made available. The cost of private prisons does not appear as a separate line item in the annual reports of the DCS. Annual reports from the DCS do disclose that each contract includes a PLF. However, the amount of this fee is rarely stated (see DCS-NSW, 2011: 128, for one exception). According to the DCS annual reports, the PLF can be up to 2.5% of the operational service-level fee at each facility (see, e.g. DCS-NSW, 2012: 97).

2. Cost per Prisoner per Day

The Public Accounts Committee of New South Wales report on 'Value for Money' notes the difficulty of establishing comparative prices in the custodial system. Figures available from the Auditor-General were used to calculate the average cost per prisoner per day, based on the whole system and inclusive of overheads (PAC, 2005: 24). The Public Accounts Committee inquiry states that the Auditor-General figures show an average cost of \$91.75 per prisoner per day at Junee, compared with \$187.80 for the New South Wales prison system (PAC, 2005: 1). This figure does not come from the Auditor-General's reports themselves, but is calculated based on the cost of prison management to the DCS (PAC, 2005: 1, ft2) However, the figures offered in the Public Accounts Committee report have been questioned. Andrew and Cahill (2009: 146–147) noted that the method of allocation for overhead costs is never stated, making the final cost figure for Junee highly ambiguous.

The General Purpose Standing Committee inquiry into the privatisation of prisons (2009: chapter 4) takes a positive view of privatisation as a means of reducing costs, stating that '... we are confident that the private management of prisons will also likely produce greater cost savings and efficiencies than if they were to remain in the public system' (GPSC, 2009: 51). This inquiry sets out the claim that Junee Correctional Centre costs \$124.29 per prisoner per day, as compared to the New South Wales prison system as a whole (excluding Junee), which costs \$184.03 per prisoner per day (*ibid*: 56). Within this, the work of Andrew (2007, 2011; see also Andrew & Cahill, 2009) has been central in examining whether claims about cost savings in private prisons are empirically or conceptually valid. As with other states, factors including the age of prisons, their design and the geographical location of the facility may all have direct consequences for the cost per prisoner per day.

Thus, like the case of the Public Accounts Committee figures, the method for calculating overheads is never stated. Therefore, the final figures are in doubt and do not provide a basis for a reliable measure of costs.

Overall, the availability and clarity of cost data for private prisons in New South Wales is poor. It is not possible to tell how much is paid to Junee and Parklea prisons on a yearly basis. Nor is there a clear calculation for the cost to the state of running two private prisons, including the cost of contract and overheads. While concern about costs has been an important driver of privatisation in New South Wales, there is not enough information in the public domain to assess cost-related consequences.

C. Additional information: Privatisation and Performance in NSW

It has been suggested that private prisons in New South Wales are more efficient than their public-sector counterparts (GPSC, 2011: x), particularly in terms of their management of staff.

The possibility of further privatisation in New South Wales helped establish the 'Way Forward' program of reforms within the public sector. These reforms were designed to reduce overtime and sick leave, whilst streamlining operational functions and improving standards of security and rehabilitation (PAC, 2005: 15). Although not always stated explicitly, this program involved tighter staff to prisoner ratios, as indicated in the use of 'rolling let go and lock in' approaches to ensure that overtime is not used when maintaining custodial staff levels on each prison block (PAC, 2005: 17).

There is no overarching evidence that privatisation has improved performance or that innovations said to be associated with privatisation fertilise the broader prison system. Given the public does not have access to the performance measures and KPIs within the contracts for private prisons, it is difficult to assess their relative merits.

1. Performance Measures

A limited number of performance measures are available for Junee and Parklea prisons. These are disclosed within the annual reports of the DCS, which incorporate some material from the monitors based at each private prison. Private prisons in New South Wales are evaluated using a combination of 'minimum standards' and KPIs.

Minimum standards for the operation of private facilities are set out in the management agreement covering each prison. These minimum standards are sometimes discussed in the DCS annual reports. For example, the DCS annual report of 2006–2007 mentions the minimum standards of Key Control; Armory Control; Use of Force; Inmate Disciplinary Procedures; Emergency Response Capability; Female Inmates; Segregation; Communication by Mail and Telephone; Inmate Hygiene; Discharging Inmates; Inmate Complaint Procedures; and Inmate Dispute Resolution (DCS-NSW, 2007: 120). These measures were only applied to Junee, as Parklea had not yet entered private control.

Performance measures derived from minimum standards are not consistent across time. For example, in 2007–2008, the DCS assessed Junee according to minimum standards in Correctional Centre Intelligence; Contraband; Serious Incident Reporting; Inmate Discipline Procedures; Management of Inmates Requiring Protection from Other Inmates; and Registers, Journals, Reports and Statistics (DCS-NSW, 2008: 124).

Payment of the PLF for each private prison is based upon KPIs. However, the DCS does not consistently provide quantitative data on these KPIs in the annual reports. Instead, the reports state whether a private prison met these targets, and what percentage of the PLF was paid to the contractor. Some quantitative data are occasionally disclosed, for example, the results of urinalysis testing. However, the DCS does not disclose what level of positive drug tests correspond to a given level of performance.

2. Performance According to Performance Measures and Inspections

The partial and inconsistent disclosure of information makes it difficult to give a clear overview of the targets used, as well as the performance of private prisons in New South Wales. The limited and inconsistent information available is summarised below.

The Corrective Services Annual Report of 2002–2003 included several concerns from the monitor regarding the Junee Correctional Centre. These included case management of prisoners taking place too slowly, with reviews of prisoner's cases not taking place on the six-monthly basis required by legislation. Deficiencies were also noted in reception screening, offering work to a significant proportion of inmates and the escape of a prisoner. On this basis, the monitor reported that the contractor was not meeting their responsibilities (DCS-NSW, 2003: 120–121). These shortcomings resulted in 15% (\$46,476.53) of the PLF for 2002–2003 being withheld (DCS-NSW, 2004: 134).

The 2003-2004 Junee monitor report tells a similar story, including failure to comply with reception procedures, and failure to fully complete six-monthly reviews of prisoners. Equally, GEO failed to meet the KPI of finding work for 65% of inmates, despite being allowed to calculate this figure based on the original capacity of the prison (600) rather than its expanded capacity (750) (DCS-NSW, 2004: 133–135). Additionally, a prisoner escaped from Junee in March 2004, an event that the Prison Officers' Union attributed to understaffing linked to the expansion of Junee to hold an additional 150 prisoners.

Although annual reports were created for 2004-2005 and 2005-2006, these are not currently available from Corrections New South Wales. The data are therefore omitted from this summary of private prison performance. However, the annual report for 2006-2007 indicates that GEO failed to meet performance targets in 2005-2006, but that the PLF was awarded in full. The justification offered for the full payment was that the PLFs were an encouragement, and not intended to be punitive (DCS-NSW, 2007: 119).

The 2006-2007 Junee monitor report indicates that GEO broadly complied with the prison management contract, but that significant issues were still raised about the management of departmental assets and the deployment of staff. Staffing deficiencies at Junee in this period led to 'lock-downs' of the prison during October, to maintain security (DCS-NSW, 2007: 119–120). Further, staff training by GEO was seen to be inferior to that offered by the DCS, with a shorter duration of eight as opposed to 11 weeks (DCS-NSW, 2007: 120). This occurred in the context of a further expansion of Junee from 750 to 790 inmates (DCS-NSW, 2007: 121). According to the 2007-2008 annual report, the PLF for the 2006-2007 year was paid in full (DCS-NSW, 2008: 123).

In the 2007-2008 review, the Junee monitor once again indicated that GEO was not meeting KPIs related to the review of prisoner case plans and the classification of inmates. However, as steps were taken to address this issue, the PLF was paid in full (DCS-NSW, 2008: 123).

The 2008-2009 report from the Junee monitor identifies only minor problems, such as checks to the contents of the armoury, supervision of inmates receiving methadone, and frequency of record keeping. However, the monitor found that GEO complied with its contract to manage Junee (DCS-NSW, 2009: 116–118). The 2009-2010 annual report was similarly brief, and raised no issues with the running of the prison even though it was the year Parklea prison transferred from public management to GEO under a private contract.

The 2010-2011 annual report by Corrective Services NSW was the first to include a monitor's report for both Junee and Parklea. The Junee monitor noted several areas of deficiency, including lack of managerial oversight of workers and staff deployment issues. However, the annual report does not give a detailed account of these issues (DCS-NSW, 2011: 127). The Parklea monitor was more critical, noting that on two occasions a prisoner had been released from the facility before their official release date. Consequently, GEO lost \$10,000 of revenue from the PLF (DCS-NSW, 2011: 128).

The Parklea monitor raised similar concerns in 2011-2012. The PLF was reduced by \$10,000 on the basis that two prisoners had been held beyond their official release date, owing to poor procedures. Equally, 7% of the PLF was withheld pending improvements in DSR systems and staff deployment (DCS-NSW, 2012: 96). The Junee monitor confirmed that GEO had complied with the contract and with minimum standards during the 2011-2012 contract year. Accordingly, the full PLF was paid for Junee Correctional Centre (DCS-NSW, 2012: 96).

Reports for both private prisons are very brief for the 2012-2013 contract year. The annual report indicates that GEO should be paid the full PLF for Junee Correctional Centre, and that conditions at Parklea conform to minimum standards but a final decision had not yet been made. This report is characterised by a general lack of detail. Similarly, the 2013-2014 annual report, now issued by the Department of Police and Justice, devotes only a single page to evaluating the two private prisons together. The reports of the Junee and Parklea monitors for the 2013-2014 contract year resulted in 93% of the PLF being paid to GEO for each prison. However, the annual report does not state the reasons for withholding 7% of the PLF on each contract (DCS-NSW, 2013: 83).

The overall picture, therefore, is that GEO has generally complied with the minimum standards of its contracts, whilst having notable deficiencies in staffing. Staffing issues concern both staff levels and their deployment, along with the actual training and experience of the staff deployed. It is also notable that very few penalties have been applied to GEO, even where it has underperformed in these areas. Further, although there is a degree of accountability, it is not clear to members of the public exactly how well these facilities are performing, either in

quantitative or qualitative terms. The monitor's reports are unavailable to the public, and the summary of these presented in the Department's annual reports is always brief.

The general picture of performance given by the monitor's reports is sometimes at odds with reports from the Ombudsman and from the media, as discussed below. The New South Wales Ombudsman raises issues that are never raised in the monitor's reports. For example, the 2005-2006 annual report from the New South Wales Ombudsman notes that Junee Correctional Centre has the highest level of complaints by inmates of any prison in the state (Ombudsman-NSW, 2006: 153). These complaints ranged from minor issues to serious matters, including release dates, security and access to legal representation (Ombudsman-NSW, 2006: 90). A very high level of complaints is noted in later Ombudsman's reports, but never in the monitor's reports. For example, in the 2007-2008 annual Ombudsman's report, Junee received the second most complaints of any prison in the state, with only three fewer than the Metropolitan Special Programs Centre (Ombudsman-NSW, 2008: 207). Junee had the most inmates' complaints again in the 2009-2010 Ombudsman's report (Ombudsman-NSW, 2010: 154.) For the 2010-2011 report, Junee had the highest number of inmate complaints in New South Wales, with Parklea in second place (Ombudsman-NSW, 2011: 155). In the 2011-2012 report, the Ombudsman found that Parklea had the most inmate complaints in New South Wales (Ombudsman-NSW, 2012: 148). In the most recent Ombudsman's report, Parklea was once again the most complained about prison in the state (Ombudsman-NSW, 2014: 145).

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