

# DOING WELL AND DOING GOOD: THE CASE FOR PRIVATISING PRISONS

Opposition to private prisons is short-sighted, argues **Anastasia Glushko**

Last year's announcements of separate plans to build new prisons in New South Wales and Western Australia under public-private partnerships were met with instinctive public recoil. Although Australians have been reliably resistant to privatisation in general for decades, the notion of outsourcing corrective services seems to hit a particularly raw nerve.

Informed almost exclusively by the excesses of the (very distinct) American experience, many people view private prisons and their operators as corrupt, secretive and morally bankrupt. Last year's Festival of Dangerous Ideas even hosted a dedicated session on the dangers of prison privatisation, notable as much for the mutual agreement of the panellists as it was for the absence of facts.

Such persistent misconceptions are a pity because the introduction of private prisons in Australia has actually had a positive impact on the corrections industry.\* This is not simply about state and federal governments grappling with budget red ink—although, yes, private prisons are cheaper to run. Privately-operated prisons are more accountable, transparent and innovative than public jails, too. Critically for the rehabilitative

prospects of their prison populations, they are also generally safer and healthier than their state-run counterparts.

## Prison privatisation in Australia

Private sector involvement in incarceration in the English-speaking world dates back to medieval England, when prisons belonged to the Crown but were sublet to jailers. Prisoners were charged admission and release fees, and were required to pay for their own food, bedding and other necessities on a sliding scale according to their financial capacity.<sup>1</sup> The practice continued in various forms in England until around the 1780s when prisoners began to be transported to Australia.<sup>2</sup>

The modern-day experiment with privatised prisons originated in the United States in the 1970s, where the market has grown dramatically ever since. Since 1975, twenty-odd corporations have entered the market as builders or operators of prisons, mainly in the Southern



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\* It should be noted that this discussion does not consider privately-operated immigration detention centres, which differ dramatically from prisons operationally and in purpose.

states. Internationally, the major players in prison services—GEO, G4S and Serco—are all subsidiaries of UK or US-based corporations, and draw on their global network of contracts for best practice and human expertise. Internationally, the performance of private prisons has been mixed, not only because of variations in security classifications, geography and prisoner groups, but also because of differing degrees of governmental (and corporate) expertise in designing and managing contracts.

Australia was only the second country after the United States to outsource corrective services, although for dramatically different reasons. In the US, the growth of the prison market was directly related to the critical levels of overcrowding that prisons reached by the early 1980s. In Australia, privatisation was a response to the need to replace deteriorating existing facilities, many of which were over a century old.<sup>3</sup>

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It is worth noting that the private sector outsourcing of prison services that has been undertaken in Australia is actually more akin to franchising (as was done with Sydney Ferries, for example) than privatisation in the traditional sense, whereby the private sector owns and controls a service that is usually provided by government.

Australia's first private prison was operated by the Correctional Corporation of Australia, an international venture of Corrections Corporation of America.<sup>4</sup> The Queensland facility began operations in 1990, and soon stoked interest in privatisation in several other states. By 2011, five of Australia's eight states had some level of privatisation, with Victoria having the highest rate (33%) as well as the largest privately-held population (1,530).<sup>5</sup> Victoria will add to its privately-held prison population with a 500-bed Melbourne facility scheduled to open next year.

Today, of the 94 prisons in Australia, ten are privately operated and announcements for two more have been made.<sup>6</sup> Although the raw number is relatively low, Australia actually houses a higher proportion of prisoners in private prisons than any other country in the world.<sup>7</sup>

### **Financial efficacy**

In many ways, the benefits of outsourcing prison services are the same as those of privatisation generally. Private companies can cut costs as they have greater control over operational activities and resourcing, and bring innovation to service delivery.<sup>8</sup> As Australia's prison population has grown and existing facilities have aged, public-private partnerships have also provided opportunities to build new correctional centres whilst enabling governments to defer much-needed cash flow.

In Australia, prison privatisation has also had the specific advantage of being able to weaken the stronghold of the unions on the sector, including the Public Service Association, a sub-section of the Community and Public Sector Union. Although private providers still work with unions—relationships are deliberately fostered long before a prison tender is even released—they have enjoyed a remarkable degree of freedom (and indeed, contractual obligation) to lower operating costs through reduced and more flexible staffing.

Some of the most significant changes, like simply adjusting staffing ratios to the pattern of the prison day, should not be beyond the vast capabilities of the public prison estate. However, this has proven to be politically impossible for many decades. Successive state governments have acknowledged the huge and seemingly quite deliberate waste created by inefficient rostering and excessive overtime. When the New South Wales government flagged wide-ranging reforms in the sector in 2008, it pointed to the Auditor General report's estimate that prison overtime had cost the state taxpayer \$43.7million in 2006-2007 alone. One employee received \$90,000 in overtime.<sup>9</sup> (It comes as no surprise that on the day that the government's privatisation plans were announced, prison officers walked off the job.)

Whilst some have questioned the financial efficacy of prison outsourcing,<sup>10</sup> evidence from

several private prisons speaks for itself. Compared with \$270 a day in a government-run West Australian jail, each prisoner in the privately-operated Acacia facility near Perth costs the taxpayer \$182. In New South Wales, the per head daily cost of privately-run Junee Prison is \$112, compared to around \$170 at a public medium-security facility elsewhere in the State.<sup>11</sup>

### **Improved service delivery**

Budget bottom line aside, the freedom from bureaucratic red tape and entrenched restrictive work practices has empowered prison and contract managers to examine creative new techniques for improving services for prisoners and staff.

Recent research indicates that private prisons perform better than their public counterparts on ‘relationship measures’ like respect, humanity and trust.<sup>12</sup> Although better treatment of prisoners was not one of the overriding goals of privatisation (whose proponents were mainly concerned with reducing costs), academic research has shown that the quality of prison life, including staff-prisoner relations, is key to reducing re-offending.<sup>13</sup> In Australia, private operators have quietly led the way on important cultural changes, like more informal and respectful attitudes to prisoners, mentoring schemes, increased out-of-cell time, and more purposeful activity to fill that time.

Private operators have also pioneered practical innovations that range from award-winning recycling schemes, Indigenous-specific treatment programs and gang management strategies to holistic prisoner pathway plans that take into account literacy levels, chronic illness, training options and family needs.

In the UK, when the healthcare team of a private prison won the Public Servants of the Year Award for successfully introducing a no smoking policy (the first prison in the UK to do so), its deputy governor remarked that such innovation would have been much less likely in a public jail. A former governor in the public system, she observed that the demand for uniformity and systemic conservatism would mean that the initiative, which has now been successfully implemented around the world, would almost certainly have been met with overwhelming resistance.<sup>14</sup>

### **Better accountability**

Not only do private prisons tend to perform better than state-run jails, but also by their very design they are more accountable. Contrary to the general criticisms pointing to the immunity of private companies to Freedom of Information applications, private prisons are not secretive fiefdoms.

True, operators do not publicly reveal detailed operating costs,<sup>15</sup> although this is no different to any other private provider of government services. All prison operators compete with each other in Australia and overseas, and the costs of bidding for a single prison contract can run into several million dollars. It should surprise no-one that operators insist that the means by which they are able to deliver cost savings to the taxpayer are treated as commercial-in-confidence. Claims that governments themselves have no access to that level of detail—and that, therefore, a conclusion about the true cost of private prisons cannot be drawn—are simply untrue.<sup>16</sup>

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First, prisons operate within a closely integrated system, not as standalone providers. It is an important caveat that under correctional management contracts the private sector in Australia must meet standards prescribed by the government. As the NSW Corrective Services Commissioner has noted, prison privatisation does not involve governments contracting out responsibility, but rather contracting out the delivery of services.<sup>17</sup> Thus, contracted prisons do not have their ‘own’ prisoners: the state allocates prisoners and transfers them between jails. Private prisons must also work with the same external service providers as the public prisons in their state, including probation services, police, educational institutions, Centrelink and the health system. Most state departments even impose their own detailed operating procedures on private providers.

Second, private operators are subject to strict rules and regulations, and are closely and regularly monitored by governments and inspectors. A team of state monitors is embedded in every privately-operated prison to monitor the operator's daily performance against contract requirements, and to apply penalties where required. Their work is complemented by dedicated contract compliance groups at the departmental level. In addition, private prisons are subject to the same independent, unannounced inspections regime as their public counterparts, and annual reports of their performance are made publicly available. Similarly, all individual prisoner complaints are independently adjudicated by a prisons Ombudsman in each state, irrespective of whether they have originated from a public or private facility.

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### On the welfare of prisoners

Private delivery of public services removes the inherent conflict of the public sector both delivering and monitoring the performance of service delivery. Operators face abatements for everything from deaths in custody, assaults, self-harm and escape to failure to meet state-mandated requirements for drug testing and education programs. For example, in the 2013-14 financial year, private operator Serco lost a total of \$680,000 for 18 breaches, which ranged from late prisoner deliveries to court (\$11,000 each) to escapes (\$110,520 each).<sup>18</sup>

Moreover, private operators are rewarded when the prison is safer, and prisoners are healthier and positively engaged in education and work programs. At minimum, private prisons must meet the same standards of safety, security and care, and deliver the same rehabilitation and training programs as would be provided by the public system. In addition, in order to win contracts, they are obliged to propose a raft of innovations and best

practice that can be transferred across the entire prison estate.

Furthermore, unlike in the public prison system where accountability tends to be linked to process rather than performance, private prison contracts are structured to financially incentivise positive outcomes, and to penalise mistakes and failures to meet agreed service standards.

At Victoria's Ravenhall Prison, built under a public-private partnership and due to open in 2017, the operator will be compensated on the basis of the rate of re-offending among its released prisoners. That prisons should concern themselves with what happens to offenders once they walk out of the prison gates may seem obvious, but public prisons barely focus on re-offending: recidivism is not even included in the state-based prison performance indicators monitored by the Productivity Commission under the Council of Australian Governments.

Of course, privately operated prisons are not immune from human error, incompetence or negligence, but that we can readily cite them is precisely the point. With corporate reputations on the line every day, there is considerable evidence to suggest that contracted prisons enable a more rapid response to, and correction of, poor performance than in the public sector. Although profit and reputation motives may seem like a dubious accountability safeguard to some, nothing exists in its place in public prisons. It is not a coincidence that a 2013 report by the independent UK think tank, Reform, concluded that every single one of Britain's twelve privately-operated prisons is producing better outcomes than comparable public prisons.<sup>19</sup>

Moreover, the controversial nature of private sector involvement intensifies the political, academic and media interest in prisons generally. In his recent book on the history of prison privatisation in the United Kingdom, Julian Le Vey argues that private prisons have changed expectations of what prisons should be like, making 'toxic old prison cultures that had developed in a different era, when no one expected much of prisons, more visible and less accepted.'<sup>20</sup>

## Conclusion

It is understandable that many observers worry that there may be a basic ideological conflict between the interests of society in ultimately minimising the number of people confined in prisons and the financial interests of private prison operators in maximising the number of prisons and prisoners. But whilst it is true that the aims of many public bodies are more complex and varied than profit, private prisons have inarguably had positive impacts across the public prison estate, particularly through cost efficiency, service quality and innovation.

Government contracts for private prisons need to be publicly available, contestable and closely monitored by independent scrutiny. However, it is short-sighted to instinctively reject them out of hand. Private prisons may not be a panacea for law and order in Australia, but they are certainly part of the answer.

## Endnotes

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- <sup>9</sup> NSW Audit Office, *Financial Reports 2008 Volume 5: Department of Corrective Services* (Sydney: NSW Audit Office, 26 November 2008).
- <sup>10</sup> Jane Andrew and Damien Cahill, *Value for Money? Neo-liberalism and New South Wales Prisons*, Working Papers Series 07/16 (Wollongong: University of Wollongong, 2007).
- <sup>11</sup> Infrastructure Partnerships Australia, *Submission to the NSW Upper House Inquiry on the Privatisation of Prisons and Prison-related Services* (2009), pp.10-11.
- <sup>12</sup> Gary Sturgess, 'The Sources of Benefit in Prison Contracting', in *Delivering Justice: The Role of the Public, Private and Voluntary Sectors in Prisons and Probation*, ed. Vicki Cardwell (London: Criminal Justice Alliance, 2012), p. 33.
- <sup>13</sup> See Guy Shefer and Alison Liebling, 'Prison Privatisation: In Search of a Business-like Atmosphere?', *Criminology and Criminal Justice* 8:3 (2008), pp. 261-278.
- <sup>14</sup> Gary Sturgess, 'Using Competition and Contracting to Improve Prison Performance', Speech to the International Corrections and Prisons Association Conference (Prague: 26 October 2008).
- <sup>15</sup> Andrew and Cahill, *Value for Money?*
- <sup>16</sup> As above.
- <sup>17</sup> Infrastructure Partnerships Australia, p. 5
- <sup>18</sup> Western Australia Department of Corrective Services, *Annual Report 2013-2014* (Perth: Department of Corrective Services, 2014), [https://www.correctiveservices.wa.gov.au/\\_files/about-us/statistics-publications/annual-reports/DCS-2013-2014/dcs-annual-report-2013-2014.pdf](https://www.correctiveservices.wa.gov.au/_files/about-us/statistics-publications/annual-reports/DCS-2013-2014/dcs-annual-report-2013-2014.pdf)
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