

ATTACHMENT: Following the money - the privatisation of Australian prisons

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Following the money: who is making the profits, and from what

The industries that happen within our prisons attract funding for corrective services. Why would they want to decrease the prison population?

[REDACTED]

The idea of having any profit motive around incarceration is egregious. And I don't think many people would be aware of what's happening [in Australian prisons.] There's room for the private sector in providing certain services. Prisons are not one of them. We should be trying to have no need for prisons. And [having] vested interests profiteering - that's pretty grim. It dissuades proactive, productive work that stops people actually entering the criminal justice system.

[REDACTED]

The incarceration of individuals is big money for a wide range of companies across several industries, spanning the multinationals managing prisons, to construction companies building them.

Law and order policies are more than just populist tools employed by political parties in the form of "tough on crime" election campaigns. They are also actively shaped and promoted by the companies that profit from mass incarceration.

The most obvious profiteers from imprisonment are the private companies contracted by governments to run prisons, a common practice across Australia. The likes of Serco, G4S and GEO Group share in about \$613 million each year to run eight private prisons in Australia, and will be paid a combined \$2.5 billion over the next four years for this. These contracts typically run for at least 10 years, and sometimes for up to 20 years.

But the private interests in incarceration in Australia extend far beyond the operators of prisons. Companies for whom mass incarceration is extremely lucrative include those in the construction, engineering, technology, hospitality, consulting and legal industries.

Construction companies

Construction companies vie for highly lucrative contracts to expand existing prisons and build new facilities to cater for skyrocketing prison populations around the country.

[REDACTED]

Australian engineering contractor John Holland is prevalent in the space, having recently won a \$109 million contract to build the new Chisholm Road Prison in Victoria last year, and a number of other prison construction jobs.

Australian construction company Civilex was also paid nearly \$5 million for its work on the Dame Phyllis Frost Centre, while Guymer Bailey Architects won a \$6 million contract to consult on the expansion of the Barwon Prison in Victoria.

Technology suppliers

Electronic monitoring of offenders and those on parole is another lucrative area for private companies. The technology is currently being used in all Australian states and territories except for the ACT, with each government purchasing or renting the equipment from various private providers.

From 2016 to 2019 the use of electronic monitoring to track individuals in Australia jumped by 150 percent.

Three overseas companies supply electronic monitoring equipment: G4S, Buddi UK and Serco.

G4S provides electronic monitoring equipment in Victoria, South Australia and the Northern Territory, on contracts worth a combined \$13.7 million.

Buddi UK provides electronic monitoring equipment in NSW, on a contract worth just under \$2 million per annum, and also operates in Tasmania. Private prison operator Serco provides electronic monitoring services to the WA government, with the state government allocating \$52 million in 2019 to the technology.

Technology companies are also regularly engaged by governments around Australia to provide services for prisons, such as controversial Chinese-based firm NucTech, which provided a number of body scanners to Victorian prisons during the COVID-19 pandemic for \$2.2 million.

Legal and consulting firms

Some of the biggest consultancy firms in the world also profit from prisons, with Deloitte winning a \$500,000 contract last year to advise the Victorian government on its plan to expand prisons around the state with “pop-up” modular cells, and KPMG entering into a \$110,000 deal with the Western Australia government in 2019 for “future service delivery options” for the Acacia Prison, which is run by Serco.

Legal firms also make money through government contracts focusing on prisons and incarceration, with Clayton Utz receiving nearly \$300,000 for a three year contract to provide

legal advice on the Victorian prison expansion project, and DLA Piper providing legal services for a range of Victoria Police projects.

Food and hospitality

Food and hospitality companies also profit by providing food and drinks to prisons around the country, with Coca Cola receiving \$1.537 million from 2019 to 2021 to provide food and drink to Victoria's public prisons. There is less transparency around the costs of food and drink in private prisons, along with other canteen items.

Transportation

Many of the same companies operating private prisons across Australia also provide secure transportation to and from these facilities, and to and from the courts. These private sector firms are inescapable for individuals subject to the criminal justice system, even if they are not incarcerated, or have been released from a prison.

For example, G4S, the company which manages Port Phillip Prison in Victoria and Gambier Prison in South Australia, holds a number of lucrative transport contracts relating to the criminal justice system.

It provided prisoner transport services in the state from 2015 to 2020 on a contract worth \$87.4 million, and was also awarded \$1.4 million for just three months in 2019 to transport people who have been released to their home or accommodation, along with \$28 million from 2017 to 2020 for custody and escort services.

The privatisation of Australian prisons

Australia has the highest rate of private incarceration in the world – even higher than the United States.

In 2018, more than 18 percent of Australian people in prison were in private prisons, compared to just over 8 percent in the US. Given this, it is essential to investigate the performance, accountability, effectiveness and contribution to recidivism of these privately run prisons compared with those in the public domain.

Conclusive findings on these issues are difficult due to barriers in finding data on private prisons and a lack of accountability for the operators of these facilities, perhaps a reason in itself for privatising this key function of government.

Around the world, including in Australia, contracting the management of prisons to private companies is justified on the basis that this competitive market process will lead to the cheapest and most efficient way to run the prison. But to determine if this fundamental

argument is even true, there needs to be appropriate levels of accountability and access to data to measure this. Right now, that transparency doesn't exist.

The contracts that state governments around Australia enter into with private prison operators, typically global multinationals, are commonly heavily redacted with little information on payments and performance measures.

The mere presence of private prisons also serves as a motivator for policies to be in place to oversee the increase in prison populations, with the companies profiting from this being very active in the political lobbying space.

The more people in prison and the longer their sentences, the greater profit that can be made, putting the interests of private operators in stark contrast to the apparent aim of prisons, to rehabilitate individuals and ensure they are not incarcerated again.

As a doctor who has worked across prisons in Victoria and New South Wales said, funding prisons as accommodation creates significant recidivism issues.

"There's a real issue with prisons becoming revolving doors and a lot of that has to do with the funding model. Prisons are funded for accommodation, and a real issue is rehabilitation and reducing recidivism. Not only are we trying to get peoples' health in order but we're trying to get their basic education in order to get them some basic skills.

"Why would you rehabilitate someone when you're dealing yourself out of a job? If you rehabilitate everyone then where's your job looking after everyone in prison?"³

In the US, private prison companies have regularly influenced prison policy through lobbying, donations and connections. Many of these same companies operate in Australia, like GEO Group, which donated \$US250,000 to former US president Donald Trump's inaugural committee. A year later, the company was awarded a \$US110 million contract to build a new immigration detention centre. In 2019, the group paid large lobbying firm Ballard Partners \$US120,000 to lobby for "public-private partnerships in correctional services".

In 2017, GEO Group also held its annual conference in a Trump-owned resort in Florida.

A researcher at the Oregon State University recently found that these private prison operators are "political actors who shape politics and policies".

Since 1989, private prison companies have spent \$US35 million on lobbying and campaign contributions to political officials. Since 1990, the number of people in prison in private facilities in the US increased by 1600 percent.

The effectiveness of private prisons is commonly measured in terms of financial savings, rather than in terms of the health and wellbeing of those who are either incarcerated or

³ Anonymous, Former NSW prison doctor, Interview with the Justice Map team, 2 February 2021

working at the facilities. There are regular concerns over low staffing numbers, the use of casualised labour, and inadequate training and support for prison workers.

The main private prison companies operating in Australia include British giants Serco and G4S, American real estate firm GEO Group, and local company Broadspectrum, formally known as Transfield Services.

These four private prison providers are making an estimated \$613.28 million per year for running eight prisons around the country. They are set to be paid a combined \$2.454 billion over the next four years in return for operating these facilities.

The NSW government will pay Serco about \$130 million per year over the next two decades to run the Clarence Correctional Centre. This is more than the \$125 million the state government is spending over the next two years to deliver 580 new social homes, and just under the \$145 million it committed for one year to supply 200 new homes as Aboriginal housing.

The WA government will pay Serco \$64 million annually to run the Acacia Prison. This is more than the \$97 million over two years the state government has committed to build or buy 240 new social housing dwellings, and nearly equal to the \$142 million over two years allocated to refurbishing existing social housing.

These companies share in hundreds of millions of dollars each year to run prisons around the country, and are also active in pre- and post-incarceration activities, including the transportation of individuals to court and jails, and the electronic monitoring of individuals on parole.

Many of the same companies running private prisons with a vested interest in ensuring the incarceration of individuals are also responsible for the tools that can lead to the incarceration of individuals. For example, Serco manages the traffic cameras in Victoria, and GEO Group offers electronic monitoring technology to state governments.

The privatisation of prison management in Australia began with the Kennedy Report in 1988, which argued that “the private sector could do it cheaper and better” than the public sector. This argument is still prevalent in current politics, with ministers in New South Wales, Victoria and Western Australia making similar points when defending the use of private prison providers.

There are nine privately managed prisons in Australia as of December 2020, with one of these — the Southern Queensland Correctional Centre — to return to state management in mid-2021. Four private prison providers are responsible for these facilities: Serco, GEO Group, G4S and a joint venture between Management and Training Corporation (MTC) and Broadspectrum (formally Transfield).

GEO Group is a US-based real estate investment trust that invests in and manages prisons across the US, Australia, South Africa and the UK. The company runs three private prisons in Australia: Fulham Correctional Centre and Ravenhall Correctional Centre in Victoria and Junee Correctional Centre in New South Wales.

The contract for the Fulham facility is worth an estimated \$593 million and runs from 1995 to 2035. The Junee Correctional Centre contract runs from 2009 to 2024 and is worth \$748 million, while the company is being paid \$2.529 billion up to 2042 to manage the Ravenhall facility.

GEO Group also provides primary health services for public prisons under a contract estimated to be worth \$459 million between 2012 and 2021. With this contract coming to an end this year, Serco has expressed significant interest in taking it over and providing healthcare in public prisons, labelling this its biggest opportunity in Australia going forward in its recent financial results.

G4S is a publicly listed British firm offering services focusing on security, cash management, consulting, criminal justice and software, and operates across Africa, America, Asia, Europe and the Middle East. The company manages Port Phillip prison in Victoria on a \$1.8 billion contract running to 2037, and the Mount Gambier Prison in South Australia, on a contract worth \$124 million from 2017 to 2022.

G4S also provides prisoner movement and in-court management services in South Australia on a contract worth \$90 million.

MTC is one of the largest private prison companies in the US, and operates the Parklea Correctional Centre in NSW with Broadspectrum on a \$1.3 billion contract running from 2019 to 2026.

There have been some developments recently, with a number of state governments moving away from the policy of private prisons due to scathing reports into their operations and effectiveness.

By midway through 2021 there will be no private prisons left in Queensland, only one in Western Australia and South Australia, and none in the Northern Territory or Tasmania.

The Queensland government in 2018 announced it would be bringing its final two private prisons back into public control following a report from the Crime and Corruption Commission's Taskforce Flaxton, which found high levels of assaults on staff in the private prisons. It found that this was due to lower staffing numbers, and also identified significantly lower transparency at the facilities compared to those in public control.

"This marketised approach, where prisons are operated by private, profit-driven organisations, disconnects the state from direct responsibilities," the report said.

“This model creates challenges for the state in ensuring prisoners detained in privately-operated facilities are treated humanely and have appropriate access to programs and services.”

The Western Australia government also recently cut short its contract with Sodexo for the management of the Melaleuca Remand and Reintegration Facility after the WA Inspector of Custodial Service found a “bewildering” lack of clarity around basic operational matters. Sodexo is a French facilities management company that partners with Serco on defence work.

Despite these movements, Australia’s two largest states show no signs of moving away from private prisons, and have regularly defended the practice.

The largest prison in Australia, the Clarence Correctional Facility, was opened in NSW last year. It will be run by Serco and will eventually incarcerate 1700 people.

In defending the decision to outsource the management of the prison, NSW Minister for Corrections, Anthony Roberts, said that contracting out this work “presents a level of competitive tension with the corrections system, and that NSW and Victoria “certainly lead the way in ensuring that we have a very good balance between private and publicly-run prisons”.

The Labor Victorian government has also stood by its decision to have privately run prisons in the state.

“The corrections system in Victoria operates as one system and has a strong partnership with its private operators,” a Victorian government spokesperson said. “Privately operated prisons are subject to a comprehensive performance management regime to ensure they deliver high quality correctional services.”

This is debatable, to say the least. A 2018 report by the Victorian Auditor-General found that there was “little data on whether Victoria’s prisons are safe, secure and meeting performance requirements publicly available”.

Prison labour

I communicate with a lot of folks in the modern slavery advocacy world. And this issue of wage theft and underpayment [in Australian prisons] is egregious. It's similar to what we see in the worst areas of America where you have obligations as a prisoner that other people are profiting off. It's absurd. And the idea that it can creep into the Australian landscape is horrific. [And] we know that there's a disproportionate amount of Indigenous Australians that are being incarcerated [...] they're getting funnelled into into a system riddled with perverse incentives.

[REDACTED]

People in prison under a certain age in an Australian facility are required to complete work. A large bulk of this work is aimed at making the prisons “self-sufficient”, such as people working in the kitchen or doing the laundry for the facility. This is regularly pitched as a way to reduce the amount of public funding needed for prisons.

But prison labour is also a lucrative industry. Each state and territory runs different prison industries programs, with private companies using prison labour to complete work at a cost. Prison workers are paid significantly below the minimum wage and present an opportunity for cheap labour for private sector businesses.

State governments generate significant revenue through this strategy. The New South Wales Corrective Services Industries agency generated revenue of \$128.9 million in 2016-17 with a trading profit of \$50.4 million, while its equivalent in the Northern Territory made a \$2 million profit in 2014.

“I worked at the warehouse at one of the prisons. I hadn’t realised, before that, that external companies use that warehouse’s distribution. I saw Siebel furniture come through —Ottomans and soft furnishings. And I said, ‘What are they doing coming in through here?’ And I discovered that inmates at one of the other prisons make that furniture. I don’t know what Corrective Services gets out of it. But I was paid, for a 50 hour week working in the warehouse, \$57 for the week. And then when I saw, you know, these industries coming through, and I’m going well, these are sheets, and linen for top notch hotels made by prison inmates. I don’t know what they’re charging to sell those items. I’d like to see people being paid the wages that they deserve to be paid.”

This type of work is regularly referred to as “slave labour” by ex-inmates, and is criticised as exploitation of those incarcerated, and a way for companies to access cheap labour and avoid having to pay sufficient wages.

There is significant variation in the amount of transparency that state governments provide over the private sector companies using prison labour.

The NSW government offers by far the most information on its “corrective services industries”, with a website spruiking the work that those in its prisons undertake, and the various opportunities on offer for private companies.

People in prison working for private sector companies in NSW prisons are paid at most \$80.73 for 30 hours of work in a week, equating to an hourly wage of \$2.70, a ninth of the minimum wage. The lowest a prisoner can be paid is for “domestic” work, with \$17.82 for a whole weeks’ worth, equating to 60c per hour.

[REDACTED]

The NSW government said its corrective services industries offer “competitive pricing” and that they “relish labour intensive business opportunities”. Industries in NSW prisons include textiles, furniture, print services, engineering, Aboriginal art and craft, product refurbishment, building projects, laundry services, pack and assembly, food services, agriculture, technology and housing.

Products manufactured or refurbished by prisons for less than the minimum wage include hospital linen, Australian flags, security fencing, furniture for other prisons and outdoor furniture. The state government has partnered with “major electrical appliance companies”, with people in prison working on shavers, kettles, toasters, blenders and microwaves.

Inmates at the Silverwater Women’s Correctional Centre refurbish and pack headsets for large Australian airlines, while Aboriginal inmates built and installed modular buildings for the Intensive Learning Centre at the Mid North Coast Correctional Centre.

In NSW, people in prison have also built fire truck toolboxes for Fire and Rescue NSW, an access ramp for Maryland Public School and refitted the Muswellbrook coffee shop. It’s often difficult to find information on what companies are using prison labour, with most information coming from the NSW Department of Justice posting publicly about this work on social media.

Late last year the department revealed that Blue Mountains homewares company Mount Vic and Me was utilising prison labour to make its “trendy tea towels”. These tea towels retail for \$37, meaning it would take a prisoner at least 14 hours of work to be able to afford one.

NSW Corrective Services Industries is the biggest provider of prison furniture in the country. It is listed as a subcontractor on a large contract the Victorian government handed to Modular Building Systems for the state’s large-scale prison expansion program, involving the construction of pop-up prison cells. This means people in NSW prisons will be building prison furniture for prisons in Victoria.

Other states and territories do not offer as much information on their industries inside of prisons.

All people in Victorian prisons are required to work if they are able to and are less than 65 years old. The state government also contracts with private companies in sectors such as metal fabrication, timber, agriculture and horticulture. People in prison are paid at three different levels depending on the degree of responsibility, complexity, skills and hours worked, with 20 percent of their earnings withheld until they are released. The state government does not reveal these pay rates, but participants at three Justice Map yarning circles, held in Ararat and Tarrengower prisons, and in a post-release facility, revealed that they have received pay rates of between \$3.00 - \$6.00 per day.⁶

⁶ Yarning Circles held on 14/09/20 (Wulgunggo Ngalu learning Place, Vic), 9/11/20 (Ararat Prison, Vic) and 10/12/20 (Winja Ulupna, Vic).

The type of tasks they give you are not going to get you a good job. We get nominal payments and you will be reprimanded first and then they can cause more problems for you if you refuse to work. You can be fined. It is slave labour.⁷

It was recently revealed that the Victorian government had proposed to use prison labour to pick fruit during the COVID-19 pandemic, but this was knocked back by the farmers.

Victorian Yarning Circle participants reported being made to wash linen, which they understood to have come from hospitals and aged care homes, during the pandemic. They described fears of becoming infected with the virus through this work.⁸

I get that it fills in your day, which it does, because there's nothing else productive to do. I even, at times when it was quiet, had a broom to sweep a concrete carpark. But it was better than sitting back, either in your house or your cell not being engaged in something. So that's how it's framed. Also that you're learning skills. So then when you are released, you've got increased chance of a job. But from what I've experienced, that criminal record is the barrier.

Corrective services can say it's giving you skills, but it's not just up to one organisation to make that change. [...] those corporate employer groups need to be open to actually employing those people. Because they might use their services while it's cheap labor, but they're not going to take them on when it goes out when they released. It needs a ripple effect of "yes, they were in prison, but they did learn those skills. And now we're going to give them a job in the community."

[...] What, practically, are you going to do? Are you going to give people jobs? Are you going to set up a business where you only employ people with a record?■

The Western Australian government runs the Prisoner Employment Program, which offers paid employment to people in minimum-security prisons in sectors like clothing, food, textiles and furniture for prisons. The government also enters into contracts with external and charitable organisations.

The private Acacia Prison, run by Serco, also partners with private companies and contractors such as with metal workshops and woodwork shops. Serco has to pay the state government 10 percent of its revenue from this prison work. Most recently, the company reported paying \$110,011 to the WA government, meaning its revenue from the prison labour was more than \$1.2 million for the year.

The South Australian government makes people in prison work in areas including the kitchen, laundry, garden and grounds of the facilities, along with private sector industries such as carpentry, metal work, textiles, stock picking and eco-recycling. The government

⁷ Participant, Yarning Circle facilitated onsite by Naomi Murphy at Wulgunggo Ngalu Learning Place, Gippsland, Victoria. Conducted, recorded and transcribed on 14/09/20.

⁸ Ibid

⁹

said that “where possible, work environments are operated just like any business in private industry”. People in prison are given a “small allowance” for each days work, which can then be used for canteen purchases and to use the phones.

The Queensland government also runs a prison work group, with community work conducted in regional areas by low-security people in prison. This includes maintaining fences, lawn mowing and restoring structures.

Case study: Serco

Serco is a publicly-listed British company specialising in public service outsourcing, with over 500 contracts worldwide and over 50,000 employees.

In 2019, Serco’s global revenue was £3.2 billion (\$5.8 billion). A third of this came from justice and immigration work.

About 20 per cent of Serco’s global revenue, and 95 per cent of its Asia-Pacific revenue, is generated in Australia. More than a third of this (£140.9 million) comes from justice and immigration contracts.¹⁰

Serco has a long history of controversy, mismanagement, human rights abuses and exploitation around the world, and has faced criticism for its treatment of workers and people in prison.

In mid-2019 Serco was fined more than £19 million for fraud and false accounting after it was found to have deliberately misled the authorities on its contract for electronic monitoring services.

Serco has also been accused of covering up the sexual abuse of immigrants at a detention centre in the UK.

In 2017 it was revealed that global law firm Appleby had noted that Serco had a “history of problems, failures, fatal errors and overcharging”, as part of the Paradise Papers leaks.¹¹

In 2020, Serco faced criticism for its involvement in the UK government’s test-and-trace program for COVID-19, with claims including that Serco’s call centres contacted a lower number of close contacts of COVID-19 cases compared with health authorities.

¹⁰ , £73.1 million for citizen services, £64.2 million for defence, £50 million for health and £3.8 million for transport

¹¹ “Serco a high-risk client with history of failures, offshore law firm found”, Christopher Knaus, *The Guardian*, 7 Nov 2017.

In November 2020, Serco lost a lucrative contract to develop warheads for the UK government's nuclear submarines, with the program to be renationalised, and the company has also faced criticism for its role in managing COVID-19 testing sites and call centres in the UK.

In Australia, Serco's management of onshore immigration detention facilities has been the subject of sustained criticism and controversy.

In July the conglomerate fired about 420 staff across two of its Centrelink call centres it manages with just one days' notice after they had already been stood down indefinitely.

In the space of just a month, there were two deaths in custody in the Serco-run Acacia Prison in Western Australia.

Despite this, Serco's revenue in 2020 is expected to grow by 19 percent to £3.9 billion (\$7 billion). Along with the UK, Serco said this growth was driven by Australia, especially through the Clarence Correctional Centre contract and work with Services Australia and Immigration Services.

Current Australian government contracts

Serco has won a number of lucrative contracts from the Australian federal government and a number of state governments. It manages Australia's onshore immigration detention centres, on contracts worth a total of \$2.5 billion running from 2014 to 2021.

The firm is also a prolific defence contractor with the federal government, and manages Victoria's traffic cameras as part of a \$203 million deal.

As outlined earlier in this chapter, Serco manages three private prisons in Australia, including the two largest prisons in the country: Acacia Prison in Western Australia and the new Clarence Correctional Centre in New South Wales. It also manages the Adelaide Remand Centre.

The Acacia Prison has a capacity of 1,525 people, while Clarence Correctional Centre can hold up to 1,700 people.

In total, Serco receives about \$204.38 million each year to run these three private prisons.

Serco has operated Acacia Prison since 2006, and recently won a further contract worth \$324 million running from 2016 to 2021. The Western Australian government has committed to keeping the prison in private hands beyond this, and has gone back to the market for a new contract. The government said a KPMG report had found that keeping Acacia in private hands would be more cost effective.

This is despite the same WA government opting to cut short a contract with Sodexo for the management of the Melaleuca Remand and Reintegration facility.

Clarence Correctional Centre opened this year in New South Wales, and is run by Serco on a contract worth an estimated \$2.6 billion over 20 years — about \$130 million per year.

The contract to operate the Adelaide Remand Centre is worth about \$9.58 million per year. Serco also runs the Young Adult Facility in Western Australia, with the contract worth \$172 million from 2012 to 2027.

Political influence

Serco has a worldwide reputation of influencing politics and pushing its outsourcing and privatisation agenda. It does this through a range of different strategies, including through releasing reports through the Serco Institute and engaging high-powered lobbyists with political connections.

Lobbying

Private prison providers have been found to regularly influence policy around the world to increase incarceration. In America, private prison providers such as the CCA Group and GEO Group, which also operates in Australia, supported tougher incarceration policies, such as California's three strikes laws and "war on drugs" policies.

In Australia, Serco employs a number of high-powered lobbying firms to push its outsourcing agenda.

In Western Australia, (where they are contracted to operate the Acacia Prison until 2021), Serco engages GRA Partners. This lobbying firm is based in Western Australia and bills itself as having a bipartisan team. Its managing partner [REDACTED] previously worked as a senior media adviser for WA Liberal leaders, while its chair [REDACTED] is a previous Deputy Premier and Treasurer of the state as a Labor member. As well as Serco, other clients include BHP, Newcrest Mining Limited and the WA Police Union.

In New South Wales, where Serco operates the newly opened Clarence Correction Centre on a contract worth an estimated \$2.6 billion over two decades, the company engages GRACosway.

GRACosway has close ties to both major political parties, with co-chair Helen Coonan a former minister in the Liberal Howard Government and the current Executive Chairman

of Crown, while other co-chair John Dawkins a former Treasurer in the Hawke and Keating Labor governments. The lobby firm is the national partner of GRA Partners, who Serco engages in WA.

GRACosway's other clients in NSW include AECOM, AMP Capital and TransDev Australasia.

In Victoria, where Serco handles traffic camera services on a lucrative contract worth \$203 million over six years and where it hopes to soon run healthcare in public prisons, Serco also engages GRACosway, along with Barton Deakin.

In Victoria, GRACosway employs a number of former political chiefs of staff, senior advisers and advisers. Its other clients in Victoria include Toll, AECOM and SportsBet.

Barton Deakin is led by ██████████ in Victoria, who has more than 35 years' work experience as an advisor to Coalition governments. Its other clients in the state include AGL and Apple.

At a federal level, Serco also engages GRA Partners.

The revolving door between Serco, corrective services and politics

There is also remarkable crossover and flow-through between Serco and state and federal politics. Former Serco employees occupy some of the highest positions in state departments of corrective services, including the Commissioners in Western Australia and Victoria. These departments are the ones making the decisions on significant contracts relating to incarceration and private prisons, and often many of the decision-makers used to work at Serco.

In Western Australia, where Serco operates the state's biggest prison, Corrective Services Commissioner ██████████ previously worked at Serco for five years up until 2014. ██████████ was the chief operating officer of immigration and business development director at Serco before joining the WA public service in 2015.

Other former Serco workers now in the Western Australian Department of Justice include the assistant commissioner of custodial operations, the assistant commissioner of adult community corrections and the acting superintendent.

Corrections Victoria Commissioner ██████████ also previously worked at Serco, serving as business development director of justice and community services from 2013 to 2014. Other public officials that are former Serco employees include the general manager of the Department of Justice, a senior project manager and the contract officer at the department, who worked at Serco for more than nine years.

The current Queensland Corrective Services deputy commissioner, [REDACTED] worked at Serco for 10 years previously to this, including as director of Acacia Prison. Other Queensland Corrective Services workers that are former Serco employees are the chief superintendent, the acting general manager and the assistant manager of education services.

In New South Wales, the current director of custodial operations at Corrective Services previously served as regional manager at Serco Immigration Services for four years.

The Commissioner of Corrective Services Northern Territory, [REDACTED] was previously the director of prisons at Serco, and had been at the company for a decade.

This familiarity flows the other way, with many Serco employees having public sector experience. The current director of Acacia Prison, the largest prison in Australia until the opening of Clarence in NSW this year, also run by Serco, previously worked in the South Australian Department of Corrective Services, while the current CEO of Serco APAC previously worked for both the Victorian and South Australian government.

In Victoria, there is a significant crossover between VicRoads and Serco, likely because of the significant traffic camera systems contracts that the company enjoys in the state.

This crossover is seen at the very top of the company, all the way down to prison guards and employees, who often shift from public to private prisons, taking the methods used in each system with them.

While some staff crossover between Serco and the Corrections department would be expected, given the crossover in the service delivery work overseen by both, this level of crossover is remarkable. We do not suggest any undue influence or misconduct on the part of individuals, but it does suggest a very close alignment between the staffing and operations of corrections departments and private prison operators, particularly Serco, including influential positions and those making important contract decisions.

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Transparency issues

A lack of transparency around the operations of private prisons, government key performance indicators for the operators, incidents within the prison and payment to the operators is a core issue surrounding their use by governments in Australia.

Contracts between the private prison operators and state governments are published publicly, but most are significantly redacted, with information about payments and staff numbers, among others, entirely censored.

The one outlier is Western Australia, which publicly posted the contracts for the privately run Acacia and Wandoo unredacted, including all of the financial details. Other state governments, primarily New South Wales and Victoria, hide behind commercial-in-confidence clauses to shield from the public much of the information behind these deals.

The “opaque” nature of these contracts, hidden behind commercial-in-confidence clauses is “damaging” and inhibits any real debate over whether private prisons are effective, according to University of Sydney associate professor Jane Andrew, who has conducted extensive research into privatisation and prisons.

“If the contract can be completely in the public domain in Western Australia, what is the argument for it not being in the public domain in New South Wales?. What is it about these same firms that in this territory that’s not far away from the other one they can’t possibly compete effectively unless their contracts are private? It’s the most ridiculous thing ever.”■

It is possible to view this as one of the benefits of outsourcing prisons for governments, with less accountability to the public and transparency around the operations of the prisons.

The NSW government’s contract for the running of the Junee Correctional Centre with GEO Group censored information on performance security payments, liability insurance, information on compassionate escorts for prisons, payment for surge bed capacity and the general monthly service payment.

Contracts for the new Clarence Correctional Centre, the largest prison in Australia, is similarly censored, as are the contracts for the three private prisons in Victoria. The contract with GEO to run Fulham private prison includes the term “not disclosed” 298 times.

There are also concerns around these contracts acting as a disincentive for prison operators to be transparent about incidents within the prison.

The contract between the WA government and Serco to run Acacia Prison outlines how a death in custody from unnatural causes will cost the global outsourcing firm \$100,000. For GEO Group’s operation of Junee, this figure is five times higher at \$500,000, while an escape from custody will cost the company \$500,000 as well.

This lack of transparency makes it difficult to determine whether private prisons are in fact more cost effective and efficient than public facilities. The overwhelming conclusion of the literature review conducted for this report, which examined over 400 sources, suggests that there is not enough publicly available data to make such conclusions.

The data available does, however, paint a negative picture of private prisons in Australia. The New South Wales Ombudsman handles case-by-case complaints reported by prisons, and receives a considerably higher amount of complaints about private prisons than public ones.

In Victoria, data has shown that the amount of vocational training and education opportunities has fallen significantly since private prisons were introduced. Between 1996 and 2000, the percentage of eligible people in prison completing training was between 45-62 percent, but since 2003 the rate has remained consistently below 40 percent.

■ [REDACTED]

Also in Victoria, the two private prisons at the time regularly failed to achieve their monthly benchmarks for case management, which assesses their ability to develop plans and monitor the options and services available to people in their custody,, a crucial element of rehabilitation and reintegration.

The mechanisms in place to provide accountability and public transparency have also struggled to gather enough information on private prisons to determine whether they are an effective policy.

In 2018, the Victorian Auditor-General tabled a report on the safety and cost-effectiveness of private prisons, concluding that there was not enough data available to determine the key question of the inquiry.

“Despite the large amount of information Corrections Victoria holds on prison performance, little data on whether Victoria’s prisons are safe, secure and meeting performance requirements is publicly available.”¹³

This was despite the Victorian government introducing “follow the dollar” laws, allowing the Auditor-General to request information from private contractors to the government.

In her research, [REDACTED] was also unable to determine whether private prisons are more effective, in terms of cost, performance and accountability, than those run by the state due to a lack of data available.

“A private prison can only be said to provide accountability if the performance, costs and efficiency of its services is clearly communicated to the public. There must be more information about private prisons in the public sphere if a real debate on privatisation is to take place.” [REDACTED]

There is also a limited ability to use Freedom of Information Act requests to obtain information on private prisons, whereas this process is much more effective when public prisons are involved.

¹³ Victorian Auditor-General’s Office, Safety and Cost Effectiveness of Private Prisons report, March 2018

[REDACTED]

The need for independent prison inspectors

The two states where private prisons are still wholly embraced — New South Wales and Victoria — are also ones with significantly inadequate prison inspection bodies, further entrenching a veil of secrecy around privately run prisons in the states.

There have been calls for an independent prisons inspection body in Victoria for more than a decade. Instead, the state has the Justice Assurance and Review Office (JARO), which reports to the Secretary of the Department of Justice, which has responsibility for Corrections Victoria.

The Office receives its funding from the Department of Justice rather than directly from Treasury, and does not report directly to Parliament.

This is in contrast to the Western Australian government's Office of the Inspector of Custodial Services, an independent prisons inspectorate which reports directly to Parliament. This independent, autonomous model operating under its own budget and statute is often seen as the model for scrutinising the operation of prisons.

There is a desperate need for Victoria to implement a more independent body to scrutinise its prisons, according to Monash University associate professor [REDACTED]

“With what we have at the moment, yes, I'm sure if there's an allegation of something happening then they have the capacity to review it, but it's not independent. When you look at other forms of government activity, what happened over the years it became obvious that you can't expect organisations to review themselves.

“It's not accepted that for allegations of wrongdoing in police that if it's significant, it has to be reviewed independently. The fact there isn't this independent review function is something that is lacking, and it affects accountability.”¹⁵

Most other states have a more independent body to report on prisons.

The NSW government has the Inspector of Custodial Services, which provides independent scrutiny of prisons and the treatment of people in custody.

[REDACTED]

The South Australian government recently passed legislation to implement a scheme allowing for groups of paid and qualified monitors to visit prisons and report back, but this has been criticised as being “half baked” as independence isn’t guaranteed, and the groups will report to the department that is directly providing its funding.

The Victorian JARO conducted one thematic review in 2019-20 on the needs of Maori and Pacific Islanders in prisons, and two reviews into “significant incidents” in Victorian prisons. It is also required to report on every adult death in custody.

According to its annual report, JARO’s recommendations to government have led to amendments to guidelines, administration and record keeping, new initiatives, reinforcing guidelines and staff training.

Australia has ratified the Optional Protocol to the Convention Against Torture (OPCAT), requiring the establishment of a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, i.e. prisons.

Under the scheme, each Australian state and territory has to set up, designate or maintain visiting bodies to prisons that are independent by the end of 2020. While states like WA with a functioning independent monitor will find this process easy, it’s unclear whether the mechanisms in place in states like Victoria are adequate to meet the requirements of OPCAT.

The Victorian Ombudsman has been urging the state government to implement an independent prisons inspector for more than two decades.

In a 2014 report the Ombudsman said the lack of independence of the review mechanism was a significant concern, pointing to the conflict of influence with the department with legal responsibility for people in prison also responsible for monitoring the performance of the prisons.

“The Victorian community should have confidence that the prison system is subject to independent, robust and transparent oversight. By any measure, the Office of Correctional Services Review does not achieve any of these objections.”¹⁶

The Victorian Ombudsman has already released a report detailing how it could take on the prison inspections role under OPCAT, and this should be urgently accepted by the state government, OPCAT Network Australia’s ██████████ said.

“What the Victorian Ombudsman did was to take on elements of the Western Australian experience, the New Zealand experience and looked at the UK, and took on a lot of elements from different monitoring mechanisms and produced something I think is a really fantastic way forward.

¹⁶ Victorian Ombudsman, Investigation into deaths and harm in custody, March 2014

“It would be more appropriate to use what the Victorian Ombudsman has done as NPM rather than looking at trying to hack the internal inspection system and try to make it independent. The Victorian Ombudsman did the heavy work for them. The fact that hasn’t happened is a real shame. It’s a wasted opportunity.”■

Numerous other groups, including the Victorian Aboriginal Legal Service and the Human Rights Law Centre have also been calling for an independent review body for more than a decade.

Western Australia is often regarded as having the nation-leading independent prison inspectorate in the form of its Office of the Inspector of Custodial Services (OICS). The office reports directly to Parliament and has its own funding and statute, in contrast to some of the other inspectors in other states.

It has been highly influential across its 20 years of existence, with the state government accepting around 80 percent of its recommendations, and a recent report leading to a privately-managed prison being returned to public hands.

The OICS has a legislative requirement to inspect every prison, youth detention centre and court custody centre in WA at least once every three years. It also completes a number of reviews into specific issues and incidents and runs the prison visitor scheme.

Despite being regarded as the best of its kind in Australia, the OICS is also chronically funded, with the Inspector of Custodial Services ■■■■■ saying the office is unable to complete additional reviews adequately with its current level of resourcing.

“Our costs are going up and our net funding has reduced in line with everybody else - we’re required to do more with less. That’s the dilemma we’re in, and the challenge of the job I’ve got. It puts pressure on us and might influence our ability to meet our KPIs or to meet our expectations around those things that are not mandated in legislation. It is tight. We do run on a little bit of an oily rag. It’s not critical, but it’s extremely tight.”¹⁸

The OICS has been allocated \$3.605 million for 2020-21, down from \$3.67 million in the previous year, and \$3.81 million annually over the forward estimates. This accounts for just over 1 percent of the WA government’s total budget for the Department of Justice of \$285 billion.

Independent inspections of prisons are crucial to uphold democracy and improve transparency in places of detention, ■■■■■ said.

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“If your brother or sister, son or daughter, is in prison you would want some independent process of oversight and accountability to ensure they were treated fairly and decently and that the conditions were humane and decent. An oversight agency like this shines a light on what goes on in a very closed and secure environment that the majority of people don’t have access to and don’t get to see. At its very core it’s a fundamental human right that people are treated fairly and equitably.”

The OICS has the same powers to inspect and gather information from privately-run prisons as those run by the state.

“Our inspection methodology, our approach, and our access is exactly the same for private as it is for public. They understand and cooperate and we get free and unfettered access in exactly the same way as in the public prisons. We’re always concerned about every facility we go to. We find things that trouble us and worry us.”

How private prison contracts put a cost on human lives

Contracts between state governments and private prison providers are often redacted under the guise of commercial-in-confidence clauses, a significant transparency issue. The publicly revealed information in the contracts do include a number of “chargeable events” for the operators of prisons, usually centred on deaths in custody and escapes.

The size of these fines reveal the dollar amount that state governments place on the lives of people incarcerated in prisons they have outsourced to the private sector. These vary significantly between states, with many governments applying the same fine for an escape from custody as for an unnatural death in a prison.

In January 2021, the South Australian government fined Serco \$100,000 after a man escaped from the Adelaide Remand Centre, which is operated by the multinational. This is the same size fine Serco would have been liable for if the same man had died for unnatural causes in the facility.

But Serco would have been facing a fine five times larger if the same thing had happened in New South Wales.

The NSW government’s contract with GEO Group for the operation of the Junee Correctional Facility includes a potential \$500,000 fine for a death of unnatural causes, the same amount for an escape, and a \$200,000 fine for an escape from open custody.

[REDACTED]

Serco's contract with the Western Australian government includes a potential \$100,000 fine for a death in custody of unnatural causes at its Acacia Prison. The contract also details how Serco may be fined the same amount for a "loss of control" and an escape from the facility.

The Victorian government also includes "charge events" in its private prison contracts, including escapes, an act of "material indiscipline", an unnatural death and professional misconduct. But despite most other states fully disclosing the size of these fines, the Victorian government has redacted these fines from the publicly available contracts.

Public prisons but private healthcare

In Victoria, the healthcare services are contracted out to private companies, with private prison operators closely involved and profiting from the state's public facilities too.

In contrast to other states, justice health responsibilities in Victoria are housed within the Justice Department, rather than the Health Department, meaning there are sometimes issues with accessing services, and most responsibility is shifted to the private sector firms.

"What happens is you don't have the expertise of the entire health department available to the prison service, being a subset of the justice ministry it basically becomes an oversight committee. It monitors the health of patients in Victorian prisons without having the expertise behind them. They're more aligned with custody, they have a role monitoring the private companies that provide health services to the public prisons."²¹

GEO Group, a Serco rival, currently holds the \$459 million contract to run primary health services in 14 of Victoria's 17 prisons, which it has contracted out to Correct Care Australasia. Correct Care's owners have faced a number of lawsuits in the US over the death of inmates in prisons where the company was providing healthcare, and has a history of court action and complaints.

Correct Care also handles healthcare at Victoria's juvenile facilities on a contract worth \$459 million, running from 2012 to 2021.

CorrectCare's contract running these health services in public prisons is due to come to an end at the end of June 2021. But it is understood that due to the ongoing COVID-19 pandemic, the Victorian government has delayed this tender until mid-2022, giving companies more time to get their bids together.

Serco, which already runs a number of prisons around Australia, is a heavy favourite to win this contract, and has listed it as one of the firm's biggest opportunities around the world.

²¹ Anonymous, Former NSW prison doctor, Interview with the Justice Map team, 2 February 2021

There have been four deaths in the Serco-run Acacia Prison in Western Australia in the last two years, with coronial investigations underway. In the wake of these deaths, the state government set up a taskforce to review the treatment of at-risk people in prison, and whether the private contractors are meeting the terms of their contracts.

In 2018, the Western Australia Office of the Inspector of Custodial Services found that at Acacia, the demand for mental health services “cannot be met” by Serco. Despite agreeing to a range of new initiatives following this report, Serco only entered into an agreement to have Indigenous mental health support officers in the prison after the two deaths this year.

There have also been numerous complaints and examples of human rights abuses in the Serco-run immigration detention centres.

OPCAT in Australia

Australia signed on to the United Nation’s Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2009, and the federal government ratified it in late 2017.

OPCAT requires signatures to establish independent inspection bodies of places of detention, known as National Preventive Mechanisms (NPMs). These will be proactive bodies that are required to be fully independent and resourced, rather than many of the reactive inspection schemes in place across Australian states and territories.

Due to Australia’s federated model, the federal government will play a coordinating role while state and territory governments will nominate their own NPMs. Australia has deferred its obligations under OPCAT, and is now not required to have the NPMs up and running until January 2022.

Australia is one of only a handful of countries to have ratified OPCAT but opted to defer its obligations for the maximum three years allowed, joining the Philippines, Hungary and Kazakhstan.

There are hopes the independent inspection bodies will provide greater scrutiny and transparency around prisons in Australia, especially those operated privately. OPCAT will also assist with comparing the operation of private and public prisons and generating a more comprehensive evidence base around them.

“There’s no limitation to what is preventative in the scope of OPCAT - it can look at the effects of privatisation on the way systems are run and whether there are any indicators to suggest that people in prison are more at risk of harm or ill-treatment in private rather than public facilities.

“There’s also the ability to do cross-jurisdictional comparisons, to potentially look at all private systems and compare them to the public ones to generate an evidence base to enable policy changes.”²²

With less than a year to go until NPMs must be up and running under OPCAT, there are concerns that the federal government and states are leaving it too late and the process will be rushed.

“The lack of progress made to date is quite concerning, especially when we’re in the final year of operation until the NPMs come into place.”²³

In a report on Australia’s implementation of OPCAT in mid-2020, Human Rights Commissioner Ed Santow said the government was moving “too slow”, and a number of “critical” questions remained only “partially resolved”.

“This has been despite the expression of public concern about conditions and treatment of people in different detention settings, ranging from police watch houses, juvenile detention facilities, immigration detention facilities, aged care and secure disability facilities. There needs to be greater momentum towards implementation.”²⁴

Only the Commonwealth and the Western Australian government have nominated their NPMs as of February 2021. The federal government has selected the Office of the Commonwealth Ombudsman as the national NPM coordinator, while the Western Australian Ombudsman and Office of the Inspector for Custodial Services will share duties in WA.

But there are concerns about a lack of consultation with civil society on these nominations in WA, while Inspector of Custodial Services [REDACTED] said the office would need additional funding to undertake these new duties.

“That will require additional funding. We simply wouldn’t be able to do that with the resources we have at the moment.”²⁵

The federal government has said it will not be providing the states and territories with any additional funding to implement the OPCAT obligations.

The Tasmanian government recently released a bill for consultation that would hand NPM duties to the Custodial Inspector, while in Victoria the state’s Ombudsman has put its name forward for the role.

[REDACTED]

[REDACTED]

[REDACTED]

²⁴ Edward Santow, Australian Human Rights Commission, Implementing OPCAT in Australia, June 2020

[REDACTED]

[REDACTED]

“It needs to be appropriately independent, empowered and resourced. This is something my office could do and is willing to do, and I’d have the powers, but I don’t have the resources - nobody does.”²⁶

The Ombudsman has estimated that an independent inspector would require a budget of at least \$2.5 million per year, with 12 full-time staff.

In response to questions lodged by Greens Senator Lidia Thorpe last year, the Attorney-General’s Department also confirmed that no funding will be provided to the states or territories to assist with the establishment of the NPMs, and the OPCAT obligations will not be enshrined in legislation.

Case study: Risk assessment instruments

There are a variety of risk assessment instruments used across Australia for adults and young people who have interacted with the criminal justice system, used to predict risk and calculate the likelihood of reoffending. They are often used for bail, sentencing and parole decisions and can be based on tech solutions, such as algorithms.

The Level of Service Inventory-Revised (LSI-R) is one of the most common risk assessment instruments in Australia, and is sold by American company Multi-Health Systems (MHS). This company also sells the Youth Level Service / Case Management Inventory (YLS/CMI), which is the most widely used tool in the youth justice system.

This tool has been adapted for the Australian context, and was purchased by the New South Wales state government as part of a licencing agreement. These contracts can be lucrative, and many tech companies are turning their attention to offering their big data, artificial intelligence solutions to corrective services.

Proponents of these tools argue that they deliver objectivity in the criminal justice system and remove human biases from the processes, while critics contend that biases are being transferred to these systems, without the potential to challenge their decisions.

A study by Anthony Thompson and Andrew McGrath studies the YLS-CMI in Australia and found that there were systemic biases contributing to young Indigenous people scoring higher on the tool, but concluded that it “can be used fairly with a diverse offender population”.

There are also concerns over a lack of transparency over decisions made by these tools, with a study by Lobna Yassine highlighting how NSW Juvenile Justice does not reveal the

²⁶ [REDACTED]

results of the YLS/CMI algorithm to the person being assessed by it. Yassine concluded that these risk assessment tools are disproportionately targeting young Indigenous Australians, finding they are more often represented as “risky” because they are represented as the most disadvantaged by the factors used by the YLS/CMI.

Case study: E-carceration and future trends

The use of electronic monitoring through technologies such as ankle bracelets have long been discussed as a potential alternative to incarceration. The use of electronic monitoring has increased significantly in Australia in recent years, and discussions around its use as a COVID-19 quarantine mechanism may see it further accepted in the broader community.

From 2016 to 2019 the use of electronic monitoring to track individuals in Australia jumped by 150 percent. Many of the same companies operating private prisons in Australia are also selling electronic monitoring equipment to state and territory governments, and will likely pivot to this form of incarceration if further moves are made away from private prisons in the country.

The increase in the use of electronic monitoring inevitably leads to private companies profiting from these tools and closely involved with the tracking and monitoring of individuals, and extending incarceration far beyond prison walls.

Electronic monitoring is used in all states and territories apart from the ACT, with these jurisdictions all having purchased or rented equipment from three private companies: G4S, Buddi and Serco.

G4S has sold its electronic monitoring equipment in Victoria, South Australia and the Northern Territory. Its contract in Victoria, where it also manages a prison, is worth \$34 million over four years.

The New South Wales government has paid Buddi, a UK-based tech company, \$2 million annually for its technology, which it has also said to the Tasmanian government.

The Tasmanian government ran a trial in 2018 of electronic monitoring at a cost of \$2.5 million. Last year this trial was hailed as a success in increasing the security of family violence victims, and will likely see a larger contract soon awarded.

Private prison operator Serco also provides electronic monitoring tech to the WA government, where it runs the large Acacia Prison. Also in WA, a woman was fitted with an ankle monitor in September 2020 after allegedly breaching COVID-19 quarantine rules, an example of electronic monitoring expanding behind the criminal justice sphere.

A study of the use of electronic monitoring in Queensland found that in 2018 there were 747 parolees being tracked, and only 59 of these individuals were sex offenders, despite the scheme being largely promoted as an effective solution for these offenders. More than 40 of those being electronically monitored had committed traffic or vehicle offences.

The year prior the Queensland government passed legislation allowing the courts to impose electronic monitoring as a condition of bail for all defendants.

The United States is far more advanced in terms of electronic monitoring than Australia, and offers a useful vision of the path that Australia is now embarking down. The technology is seen as an alternative to incarceration in the US as the country deals with overcrowded prisons and a move away from private facilities.

In 2005 there were 53,000 people awaiting trial being electronically monitored in the US. This figure jumped by 140 percent in 2015 to 125,000. In 2019, it was estimated that there were over 200,000 people being electronically monitored on any given day.