

Forum Report

On Wednesday the 26th of August 2015 at NSW Parliament House, the Community Justice Coalition and the International Commission of Jurists jointly hosted a forum to discuss the Inspector of Custodial Services' Report concerning the adverse consequences of the growing inmate population and consequential overcrowding.

Issues that the Inspector highlighted in his report included the negative impacts that overcrowding has on prisoners such as reduced access to rehabilitation programs, education, health services, and family access. He documented NSW having the least time out of cells in Australia with more people crammed into cells than Health Regulations permit.

Since the Report was published, John Paget stated that the prison population had continued to increase from 11,339 to 11,955 as of the 7th August 2015. He said that the system was "clearly operating beyond its capacity and that removal of overcrowding is the essential condition for improvement within prisons". The Bureau of Crime Statistics published figures showing that there had been a 12.2% increase in the adult prison population over one year and increasing. David Shoebridge questioned why the prison population was expanding despite violent crime being at a historic low. Luke Grant linked it to the events of Jill Meagher's death and the Martin Place siege. He further commented that there is very little excess capacity to respond to increased prison population numbers and it was hard to predict future trends in the prison population.



Corrective Services Assistant Commissioner Luke Grant responding to the general concerns.

The forum featured presentations by Inspector John Paget, PSA Assistant General Secretary Steve Turner for prison officers and The Greens Justice Spokesperson The Hon. David Shoebridge MLC. Ms Joy Gardiner, the mother of a prisoner at Lithgow, described what the effects were for her son. He was deprived of education, counselling or a hearing for parole. Corrective Services Assistant Commissioner Luke Grant responded to the general concerns.

The sponsors of the Forum regretted the absence of the Minister responsible for the area, David Elliott and of Shadow Minister Guy Zangari. Chair John Dowd clarified that the Minister was given the opportunity to send a representative. David Shoebridge highlighted the lack of an acceptable official reaction to the Report and said "this Report by the Inspector should have been a comprehensive wake up call".

Throughout the Forum there was strong criticism of the increasingly common trend of tripling up in cells designed for two. Luke Grant affirmed that this was a "highly undesirable practice that we would never resort to unless we have insufficient space". However he argued that there had been exaggeration and that there were only 80 individuals in 'triple up' cells and an overwhelming majority of those were held on a short-term basis. He questioned the legitimacy of the standards in the Health regulation, stating that there is "**no science behind the existing public health regulation**". He said there is "**not much evidence that there is any difference**" between cells that are compliant with the regulations, and those that aren't.

Corrective Services Assistant Commissioner

Luke Grant said :

“There was some reference to the public health regulation. The fact is that there is no science behind the existing public health regulation. **Public health regulation at the moment requires every inmate to have 5½ square metres of space** - if they are going to be in that space/ sleeping accommodation for more than 28 days. It came from regulations that were created perhaps for boarding houses and other circumstances – and we have been trying to understand **what does it mean if they have got 4 square metres, or if they have got 6 square metres – is there any protection conferred on people to their mental health** or otherwise. We have engaged an independent body of people - the Kirby Institute at the University of NSW to review the literature. We’ve got Justice Health doing surveillance on all cells – and we’ve got Denise here who has been involved in that project – looking at all cells where people are sharing accommodation – that is less than compliant, the smaller spaces, to see, is there any difference? **I think at the moment there is not much evidence that there is any difference.** Corrective Services and Justice Health do very well in managing public communicable diseases outbreaks – very strict policies in place. We haven’t had massive outbreaks. We haven’t had the concerns over rights because people are making a big effort – as John has acknowledged – to manage these arrangements. So I think the most important thing for me to say – and I am not here officially speaking on behalf of Corrective Services – is that we are very mindful of the overcrowding issue and we are doing our best to accommodate that, to grow the beds. We have put up a whole series of strategies to government, and some of them are under consideration, including the one John mentioned before about electronic monitoring – that’s on the table for consideration.”

Further comments were made on the impact of the overcrowding issue on the internal management of the prisons. In particular, Steve Turner highlighted the effect that overcrowding had on workplace safety for prison officers. He raised concerns about the changes in workers compensation legislation.

Limited resources and the existence of budget restrictions on Corrective Services was a major concern to participants of the Forum. In particular, John Paget highlighted how this can lead to reduced staff and more frequent lockdown periods. Luke Grant highlighted CSNSW’s strong record of financial efficiency. He said: “Corrective Services NSW has got the lowest cost per prisoner per day across the country, significantly lower than the national average. That was not the case five or six years ago – we have done a lot of work to make our prisons more efficient.” David Shoebridge criticised efficiency as a measure of success as it only reveals, “we spend the least per prisoner per day and this is just a race to the bottom that NSW is winning” but the proper measure of success should be changes in recidivism.

Despite his criticisms, John Paget applauded CSNSW in managing the overcrowding situation without the loss of life experienced in other jurisdictions. He pointed to legacies of the past as contributing to the problem, in particular inadequate planning for bed spaces and 19th century facilities.

The forum also discussed the advantages of keeping prisons under public management. The high numbers of people on remand was criticised. John Dowd pointed to how many people “serve time incorrectly”, either being found innocent at trial, or having been incarcerated longer than they are eventually sentenced or not having their case pursued. He said that bail legislation should be about ensuring presence at proceedings, not assessing the likelihood of committing another offence. The audience also raised alternatives to remand, including forms of electronic tracking.

Resolutions

The Forum made a number of resolutions, which were agreed to by all present.

- 1) The forty seven Recommendations of the Inspector’s Report should be implemented.
- 2) The government should increase the number of judges in the District Courts to lessen the period before trial.
- 3) Alternatives to imprisonment should be seriously considered. A special emphasis was put on the use of electronic monitoring.
- 4) The NSW government should allocate more funds to CSNSW to prevent tripling-up and the unnecessary movement of prisoners, which interferes with education and social support networks.