



NSW ELECTIONS 2007 POLICY THE LAW, POLICE, PRISONS AND CRIME

Nothing shows the bankruptcy of Labor and the Coalition in New South Wales more than their race to prove who's "tougher on crime and terrorism".

Since former premier Bob Carr turned "tough on crime" and tightened sentencing guidelines the prison population has increased by 50%.

Carr's successor Morris Iemma continues a fine ALP tradition—sticking new jails in marginal electorates. Wellington has one and Nowra is to get one.

The impact on crime statistics of Labor's approach has been very small, but the rise in human misery, bitterness, racism (Cronulla) and discrimination against communities has been huge.

The Socialist Alliance approach is the exact opposite of this Lib-Lab law-and-order populism.

We say *reduce poverty, reduce crime*. Only a sustained attack on long-term unemployment and low income and the provision of decent

services in housing, health and education can start to turn the crisis around—particularly for Indigenous communities.

Every person in NSW presently contributes \$90 a year to maintaining its unjust and counterproductive prison system. Let's start dismantling it now and turn our money to better use.

How will we know when we're making serious headway against real crime in NSW? When 20% of the prison population is not made up by Indigenous people but by employers responsible for workplace deaths and accidents and by corporate swindlers like Rodney Adler.

Anti-terrorism laws

- **Repeal NSW anti-terrorism legislation.** There are enough powers under existing criminal law to protect against potential terrorist attack. Specific anti-terrorism laws make it more likely that innocent people will be convicted and punished—if only to prove that the laws are needed. This looks possible in the case of Faleem Khalid Lodhi, sentenced to 20 years jail in 2006. Anti-terrorism law also increases the possibility that people will be criminalised or punished for "thought crimes", or found guilty on confessions extracted by torture or on the basis of secret "evidence".
- **End NSW collaboration with federal police and military authorities until federal anti-terrorism law is repealed.**

The police

- **End zero-tolerance, military style policing.** This hasn't reduced violence and "anti-social behaviour"—it's just been driven indoors and turned into strife within families and increasing self-harm, including suicide, among young people.
- **Dissolve the Middle Eastern and South East Asian crime squads.** In Arab-Australian and Muslim communities (where unemployment rates are three to five times the average), police harassment reinforces discrimination, racism and divisions within the community.
- **Dissolve the riot squad.** The Iemma government is boosting the riot squad, equipping it with water cannon and taser guns. This simply increases the possibility of serious injury or even death when the squad is used against protestors.
- **No use of police in industrial disputes.**
- **End police harassment of young people.** Checking young people for drugs with sniffer dogs at events like the Big Day Out is harassment and a complete waste of time. It's also often racially motivated.
- **End special police powers to "lock down and take command" of an area.** Under this power police are free to harass entire communities.
- **Start reducing police numbers.** Overseas studies show that a dollar spent on crime prevention programs can save up to \$11 in spending on jails, police and compensation of victims. Start shifting an increasing part of NSW's record \$2.2 billion police budget to prevention programs.

The jails

- **No new jails.** The jails are schools of crime, and imprisonment should be the very last resort in sentencing, especially for those guilty of victimless crimes and on remand (over 50% of the total in NSW). Jails don't rehabilitate, wreck families, entrench violence in relationships and among communities, teach crime skills, punish the innocent, reinforce mental illnesses, make it harder for prisoners to get out of debt, breed drug addiction and stigmatise people for life. They are also an enormous waste of money (weekly "rent" for an open custody inmate in



NSW is over \$1100).

- **Close the High Risk Management Unit at Goulburn Jail.** The HRMU is NSW's own Guantánamo. Abusive treatment of prisoners has been reported over a long time, and it sounds very like prison regimes elsewhere in the "war on terror".
- **Transfer prisoners suffering from mental illness from the jail system to places where they can get proper attention.**
- **Reverse jail privatisations.** Under Labor the jail system is becoming a private "industrial complex" as in the US.
- **No use of prisoners as cheap labour**
- **Restore full voting rights to prisoners**

Indigenous Australians in jail

Indigenous Australian make up less than 2% of the NSW population, but 20% of its jail population.

In the words of the 1991 Royal Commission into Aboriginal Deaths in Custody: "The most significant contributing factor to incarceration is the disadvantaged and unequal position of Aboriginal society in every way."

Until this massive injustice is tackled it is vain to hope that Indigenous jail rates will fall much.

However, in addition to its program for the rights of Indigenous people and for an emergency attack on poverty the Socialist Alliance stands for:

- **Full implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody**
- **Boosted funding to Aboriginal Legal Aid**
- **Thorough training of court officials, police and prison officers in Indigenous culture and values**
- **Proper representation of Indigenous communities on law reform bodies**
- **Greater Indigenous representation on juries**
- **Indigenous community policing**
- **Greater use of suspended sentences**

The law

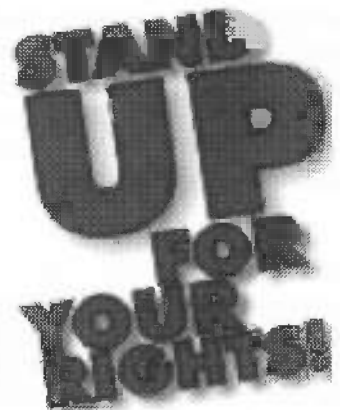
- **For an independent commission to vet NSW law against international standards.** NSW law could well be in breach of international conventions in the areas of police search powers, rights of accused people to bail, presumption of innocence, the right to silence and the equal treatment of witnesses by defence and prosecution.
- **No move to mandatory sentencing, roll back the tightening of bail conditions.** These eliminate or restrict any discretion on the part of judges and magistrates.
- **No majority verdicts for jury trials, no preventative detention without trial**
- **Reduce the penalties for "riot" and "affray".** Under Labor these were increased from five to 15 and 10 years respectively, increasing the possibility of long prison sentences for protestors against police crimes like the death of Redfern teenager T. J. Hickey.
- **Decriminalise personal drug use.** This should be treated as a social or health issue, not a crime.
- **Make the law accessible to all.** Increase funding to legal aid and community legal centres.

Prevention not punishment

- **Make greater use of community-oriented rehabilitation schemes.** These have been shown to reduce rates of re-offending.
- **Boost special developmental programs.** Around Australia there are a number of developmental crime prevention programs, covering early childhood support, special health care, literacy, job skills, sport and self-esteem training. These should be boosted in NSW, with provision to meet the special needs of women and gay, lesbian, bisexual and transsexual prisoners.
- **Implement alternatives to imprisonment like restorative justice and circle sentencing.** Restorative justice is concerned with repairing the harm caused by criminal behaviour to both victim and offender. Circle sentencing, which involves taking the sentencing court to a community setting, aims to build greater involvement from Indigenous people in the sentencing process.

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Issues for Reform

- Will you commit to the appointment of a Statutory Inspector General of Prisons with the status of a District or a Supreme Court Judge, with the right and the duty to visit NSW prisons as and when they see fit; with the duty to ensure that the NSW prisons meet **The UN Standard Minimum Rules for the Treatment of Prisoners 1957 and The Standard Guidelines for Corrections in Australia** and with the duty to report directly to the Minister for Corrective Services at least once a year.

Yes No

- Will you commit to strengthening the role of Prison Visitors by giving them the right to report directly to the Minister when they judge it advisable to do so.

Yes No

[If there is any additional information or comments you would like to provide concerning the above questions please use the lines provided here. Any additional information may be attached to this document].

Conclusion

The CJC is of the view that the above issues should underpin your policy considerations on prison reform.

The CJC considers it vital that a comprehensive planning study commence at the earliest opportunity to establish the groundwork for a policy on prison reform in NSW.

In addition to the responses above, are there any matters which you consider should be addressed?

If you are unable to tick yes/no are you able to make other commitments?

The Socialist Alliance supports a shift towards "justice reinvestment" - redirecting existing spend on police, prisons + courts towards prevention, rehabilitation and alternative sentencing. Our basic approach is "reduce poverty to reduce crime", reflecting the systemic connection between socio-economic hardship, lack of access to services & secure housing and employment, and criminal activity.

The current levels of funding to, and the dominant purposes of, the criminal justice system serve to normalise criminality, poverty, marginalisation and incarceration, of people on the margins of society, while largely ignoring the crimes perpetrated at the big end of town.

We mean to turn this state of affairs on its head. In the interim, we endorse the recommendations of this document as invaluable in re-jecting justice into the legal system.

As employers, correctional facilities have a duty of care to protect the health and safety of prison employees, and it has been strongly argued that introducing a controlled in-prison NSP would in fact make the workplace safer. Corrections facilities management can follow the lead of law enforcement agencies by adapting existing risk reduction practices to cater for the introduction of controlled needle exchange,⁶⁷ as has occurred successfully in other countries.⁶⁸

In considering this issue, Justice Michael Kirby has captured the way in which prison-based NSP must balance officer and prisoner health as part of a broader community health issue:

"The infection of any prison officer by the isolated act of a prisoner is most unpalatable. It is criminal conduct and morally outrageous. The infection of a person who is in the custody of society, because that person does not have access to ready means of self-protection and because society has preferred to turn the other way, is just as unpalatable. As a community we must take all proper steps to protect prison officers and prisoners alike. By protecting them we protect society".⁶⁹

Any introduction of a trial NSP in prison would need to include concerted education programs with all prison staff and their unions to address their concerns by proving that such programs do not put their safety at risk.⁷⁰

If there is any additional information or comments you would like to provide concerning the above please use the lines provided here. Any additional information may be attached to this document].

The Socialist Alliance support the introduction of a prison-based NSP, and echoes the concerns of Justice Kirby. However, we believe that any NSP would need not only to have education programs for staff, but their prior approval of such a program, negotiated in detail with both prison officers & their union, as well as prisoners rights advocates.

Privatisation

Prisons should remain a state responsibility to maintain government accountability instead of transferring judicial power to corporations in the interests of social democracy and relationship between citizen and state.⁷¹ Additionally, management of offenders under a private prison system would not deliver the required standards of care.⁷² Corporate profit motives only ensure minimum standards for privatised prisons without extending to broader moral considerations of human decency.⁷³ Business incentives in relation to prison management are not in the public interest.⁷⁴ Privatisation is also unviable financially. The decision by the NSW government to privatise Parklea and Cessnock prisons was based on a 2005 report of the Legislative Assembly 'Value For Money From NSW Correctional Centres'.⁷⁵

Dr Andrew of the School of Accounting and Finance, University of Wollongong and Damien Cahill from the University of Sydney, attacked the report's conclusion that the privatised model of prison management delivered superior 'value for money'. In their paper, 'Value for Money? Neoliberalism in NSW Prisons', Australian Accounting Review 2008, they concluded that 'the report is fundamentally flawed on its own terms' (at page 3) and is driven by concepts of ideology rather than any cost data evidence of financial savings (at page 24).⁷⁶

There is a need for an open, independent prison governance system instead of the current lack of transparency. While performance indicators on a range of criteria have been introduced as a form of monitoring at a national level, NSW prison watchdog agencies such as the Ombudsman have increasingly been muzzled and the Inspector-General's position abolished in 2003.⁷⁷

Issues for Reform

Will you commit to prisons remaining a government responsibility.

Yes No

If there is any additional information or comments you would like to provide concerning the above questions please use the lines provided here. Any additional information may be attached to this document].

NSW Socialist Alliance policy

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January 25, 2011

Dear Community Justice Coalition,

Re: Pre 2011 State Election submission and questionnaire for specific reforms to the NSW Prison System

Thank you for giving the Socialist Alliance the opportunity to contribute to the important matter of criminal justice, imprisonment and civil rights in New South Wales.

The Socialist Alliance supports a wholesale shift from the overly punitive approach currently dominant in NSW criminal matters to a system that identifies the causes of crime, and reduces the chances of recidivism through the provision of training, opportunity and the adequate and appropriate provision of necessary social services.

We also support a shift in focus from criminalisation of offenders to education, rehabilitation and appropriate treatment of those who fall foul of the legal system.

The scale of this issue in NSW is enormous, and growing, and we are glad to contribute to the work of the Community Justice Coalition and the many other community organisations and individuals who are struggling to rehumanise the criminal justice system. It is only in this way – we believe – that the ‘problem’ of crime can be solved.

The Socialist Alliance’s approach to law and crime runs deeper than the mere adaptation and reform of the existing system outlined in the submission. We seek a thoroughgoing change in the distribution of and control over society’s wealth that will do away with the conditions that lead to criminal activity.

In the interim, however, we fully endorse the reforms suggested in the submission, as a long-overdue step towards reintroducing justice to the criminal legal system.

In addition to the questionnaire, I have attached the Socialist Alliance’s policy on Police, Prisons, Law & Crime from the 2007 NSW state election, as well as the current draft update of this policy, due to be formally updated at the end of January.

Should you require any more information, clarification or for comment, please feel free to contact us at the details above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Duroyan Fertl', with a long horizontal line extending to the right.

Duroyan Fertl, LLB
Crime and Justice Spokesperson, Socialist Alliance NSW
Candidate for NSW Legislative Council

NSW Socialist Alliance policy

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Law, Police, and Prisons – *draft* (Pending adoption in late January 2011)

The “law and order auctions” that have characterised NSW election campaigns for decades show the total bankruptcy of both Labor and the Coalition in New South Wales. Years of a “tough on crime” approach, with tightened sentencing and bail guidelines have seen the NSW prison population increased dramatically, straining the public purse and condemning thousands to the revolving door or the criminal justice system.

The Socialist Alliance approach is the exact opposite of this ineffective law-and-order populism. We say *reduce poverty, reduce crime*. Only a sustained campaign to reduce long-term unemployment and low incomes, and to ensure the provision of decent services in housing, health and education, can start to turn the crisis around.

The cost of keeping one person in a NSW prison for a year is almost equal to the cost of two public school teachers. Instead of properly teaching and training our youth and rehabilitating those who have fallen into crime, taxpayers are instead paying to maintain an unjust and counterproductive prison system that does nothing to fix the problem.

Socialist Alliance stands for dismantling the ineffective and expensive prison system, and turning our money to better use – to prevention and rehabilitation.

How will we know when we’re making serious headway against real crime in NSW? When 26% of the prison population is not made up by Indigenous people but by the employers responsible for workplace deaths and accidents, and by corporate swindlers and crooks.

The police

- End zero-tolerance, military style policing. This hasn’t reduced violence and “anti-social behaviour”, which has simply been driven indoors and turned into strife within families – increasing self-harm, including suicide, among young people.
- Dissolve the Middle Eastern and South East Asian crime squads. In Arab-Australian and Muslim communities targeted police harassment reinforces discrimination, racism and divisions within the community.
- Dissolve the riot squad. Ever since the State government boosted the riot squad – equipping it with water cannon and taser guns – the possibility of serious injury or even death when the squad is used against protestors has increased.
- Stop the rollout of tasers, which have been continually and blatantly misused by police, resulting in serious harm and death, and risking the lives of hundreds more.
- No use of police in industrial disputes or to reinforce unjust industrial laws.
- End police harassment of young people. The use of sniffer dogs in pubs and to harass youth at events like the Big Day Out is a complete waste of time and resources, and is often racially motivated.
- End special police powers to “lock down and take command” of an area. Under this power police are free to harass entire communities. The “special” police powers granted for the APEC Summit in Sydney – and maintained to the present day – are an attack upon democracy, are entirely unnecessary, and should be repealed.
- Reduce police numbers. One dollar spent on crime prevention programs can save up to \$11 in spending on jails, police and compensation of victims. Shift the bulk of NSW’s record \$2.8 billion police budget towards genuine crime prevention programs.

Jails and Prisons

- No new jails. Jails are schools of crime, and imprisonment should be the very last resort in sentencing, especially for those guilty of victimless crimes and on remand. Jails don't rehabilitate, they wreck families, entrench violence in relationships and among communities, teach crime skills, punish the innocent, reinforce mental illnesses, make it harder for prisoners to get out of debt, breed drug addiction and stigmatise people for life. They are also an enormous waste of money (weekly "rent" for an open custody inmate in NSW is almost \$2000). This money could be better spent preventing crime, or rehabilitating offenders.
- Close the High Risk Management Unit at Goulburn Jail. The HRMU is NSW's own Guantánamo. Abusive treatment of prisoners has been reported over a long time, and sounds very like prison regimes elsewhere in the "war on terror".
- Transfer prisoners suffering from mental illness from the jail system to places where they can get proper attention. Too many people suffering from mental illness are caught up in the criminal system, where it is often "easier" to lock them up than to provide proper treatment and support.
- Reverse jail privatisations. Under Labor the jail system is becoming a private "industrial complex". Private jails mean worse conditions for both inmates and prison guards, and jails become a way for corporations to profit from crime.
- No use of prisoners as cheap labour. Prisoners should not be treated as slave labour to make a quick buck for unscrupulous companies and taking jobs out of the community. All prisoners allowed to work should be paid a proper wage.
- Prisoners should have full access to educational, training and health facilities to enable them to easily and effectively return to society.
- Restore full voting rights to prisoners. Denying prisoners the right to vote is a breach of their civil liberties. Everyone should have a say in deciding who governs and which laws rule our society – even those who have fallen foul of the law.

Legal Reform

- Set up an independent commission to help bring NSW law in line with international conventions. (NSW law is almost certainly in breach of police search powers, rights of accused people to bail, presumption of innocence, the right to silence and the equal treatment of witnesses by defence and prosecution).
- No to mandatory sentencing, which eliminates judicial discretion in sentencing
- Full presumption in favour of bail, with less restrictions and reduce the use of prison for remand. Current bail laws consign thousands of potentially innocent people to indefinite incarceration until their trial is heard
- Maintain the principles of double jeopardy, the presumption of innocence and a trial by jury for all indictable offences
- No majority verdicts for jury trials, no preventative detention without trial
- Reduce the penalties for "riot" and "affray". Under Labor the penalty for these offences were increased from five to 15 and 10 years, increasing the chances of long prison sentences for protestors – a clear example of the effects of a "law and order auction"
- Decriminalise personal drug use. Drugs should be treated as a social and/ or health issue, not a crime. Criminalisation of drug use only serves to alienate people, particularly young people, and encourages unnecessary police harassment
- Make the law accessible to all. Increase funding to Legal Aid and community legal centres, with an emphasis on law reform, free legal representation and community legal education to lower income, migrant and indigenous communities and youth

Indigenous Australians in jail

Indigenous Australians make up only about 2% of the NSW population, but 26% of its jail population. In the words of the 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADIC) "the most significant contributing factor to incarceration is the disadvantaged and unequal position of Aboriginal society in every way."

Until this massive injustice is tackled it is vain to hope that Indigenous jail rates will fall much. In addition to its program for the rights of Aboriginal and Torres Straight Islander people and for an emergency attack on poverty, the Socialist Alliance stands for:

- Full implementation of the recommendations of the RCIADIC
- Boosted funding to Aboriginal Legal Aid
- Full training of court officials, police and prison officers in Aboriginal culture and values
- Proper representation of Aboriginal communities on law reform bodies
- Greater Aboriginal representation on juries and control over community policing
- Greater use of suspended sentences and community-based alternatives to prison

Prevention not punishment

- Greater use of community-oriented rehabilitation schemes. These programs reduce rates of re-offending, and are cheaper and more effective in reducing crime and recidivism than putting people through the criminal justice system
- Boost special developmental programs. Around Australia there are a number of developmental crime prevention programs, covering early childhood support, special health care, literacy, job skills, sport and self-esteem training. These should be boosted in NSW, with provision to meet the special needs of indigenous, migrant, women and gay, lesbian, bisexual and transsexual prisoners
- Implement alternatives to imprisonment like restorative justice and circle sentencing. Restorative justice is concerned with repairing the harm caused by criminal behaviour to both victim and offender. Circle sentencing, which involves taking the sentencing court to a community setting, aims to build greater involvement from Indigenous people in the sentencing process, and create a sense of community trust and responsibility in order to reduce crime

Anti-terrorism laws

- Repeal the NSW anti-terrorism legislation. Existing criminal law is more than sufficient to protect against potential terrorist attacks. Specific anti-terrorism laws make it more likely that innocent people will be convicted and punished and increase the chances of people being criminalised for "thought crimes", or found guilty on confessions extracted by torture or on the basis of secret "evidence".
- Restrict NSW collaboration with federal police and military authorities until federal anti-terrorism law is repealed.