



United Voice

Submission to the Crime and Corruption Commission - Queensland

*Taskforce Flaxton – An examination of corruption and
corruption risks in Queensland corrective services facilities*

19 April 2018

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Introduction

United Voice makes this submission to the Crime and Corruption Commission (the CCC) regarding the commencement of *Taskforce Flaxton* (the Taskforce) and the examination of corruption in Queensland corrective services facilities.

This submission responds directly to the matters ventilated in the Taskforce "*Issues Paper*" document and those key questions posed to persons and organisations to whom have recent experience with correctional facilities. In doing so, this submission draws upon information gathered by consultation with our union membership whom are employed in privately operated corrections facilities in Queensland.

This submission deals directly with several inherent systemic failures in Queensland which exert pressures that significantly impact upon the management of private correctional facilities and risk compromising the safety, efficiency and legitimacy of these facilities. These systemic failures include (but are not limited to):

1. Systemic understaffing; and
2. Increased risk of misuse of delegated power; and
3. Lack of transparency and accountability of privately operated corrective services facilities.

United Voice is concerned that these systemic failures may increase the risk of corrupt behaviour and practices in private correctional facilities. These elevated risks of corruption undermine staff safety, prisoner safety and erode public confidence in the standards and integrity of Queensland private corrective service facilities. To demonstrate these elevated risks of corruption we have obtained and referred to in the submission examples of (1) understaffing, (2) excessive use of force and (3) the misuse of information.

Alarming, when corrupt behaviour and practices are identified in private correctional facilities the proper accountability mechanisms that are designed to investigate instances of corruption are not triggered (for example investigations and prosecutions by the Ethical Standards Unit) or are averted.

United Voice is concerned that the significant autonomy provided to operators of private correctional facilities creates an environment that fosters an elevated risk of corrupt behaviour and operators knowingly abrogate from their responsibility to maintain high levels of integrity and conduct.

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Overview of United Voice, Queensland

United Voice represents almost 30,000 workers in Queensland across a range of public and private sector employers who are engaged in a diverse range of industries and occupations, and who remain under both the State and Federal industrial relations jurisdiction.

Our membership includes school cleaners, teacher aides, ambulance officers, health professionals and operational staff, childcare workers, those employed in the contracting industries, including but not limited to cleaning, security and hospitality, private prisons and detention centres and aged care workers.

United Voice has a proud history of advocating for and representing the industrial and safety interests of our members. When it comes to the safety of our members at work, we welcome any advance in work health and safety laws which deliver further protections to Queenslanders at work and delivers on the expectation of workers and their families that we are all entitled to go to work and return home safe.

United Voice membership in private correctional facilities

In Queensland, United Voice covers and represents persons employed or engaged to work in any private correctional facility and prisoner transport, including the provision of security escort services to and from correctional facilities, courts and/or hospitals. The men and women whom form our membership in private correctional facilities are for the most part employed as Correctional Services Officers (CSOs) and have direct responsibility for the day to day care and management of prison inmates.

Privately operated corrections facilities in Queensland

While Queensland Corrective Services (QCS) predominately runs Queensland's prisons, QCS also contracts two privately operated facilities. Arthur Gorrie Correctional Centre is managed by the GEO Group Australia Pty Ltd, and Southern Queensland Correctional Centre by Serco Australia Pty Ltd.

United Voice actively represents the industrial interests of our membership in both the Arthur Gorrie Correctional Centre (AGCC) and the Southern Queensland Correctional Centre (SQCC).

Legislative Framework - Corrective Services in Queensland

QCS is governed by the *Corrective Services Act 2006* (Qld) (CS Act), which establishes the legislative basis for the management of prisoners and those on community based orders. While the CS Act provides the broad legislative framework, each prison has significant autonomy in its operation.

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United Voice is concerned that this significant autonomy provided to operators of private correctional facilities extends too far creating an environment that may increase the risk of corrupt behaviour and operators knowingly abrogate from their responsibility to maintain high levels of integrity and conduct.

Delegated power - *Corrective Services Act 2006*

CSOs are appointed under the CS Act. Under that Act they have special powers and obligations above those of other citizens, such as the power to search prisoners (including strip searches). They exercise their delegated power to maintain safety, order and security, with this power extending to decision-making over almost all aspects of a prisoner's life.

The CS Act allows CSOs to use force against prisoners when that force would otherwise be (at least) an assault under the *Criminal Code 1899* (Qld). However this power is not unlimited. A CSO's power to use force against a prisoner is relevantly dealt with in s143 of the CS Act.

We understand that there is a cohort of senior prison staff that abuse this delegated power. Often there are instances where staff use excessive force, misrepresent incidents, encourage abuse of process or deliberately place vulnerable prisoners in cells with more experienced prisoners to encourage abuse of a prisoner. Often there are instances where prison staff, either voluntarily or subject to coercion and duress from other prison staff or prison management, overlook some types of wrongdoing which adds to the already volatile and fragile setting of correctional facilities.

Overview of the correctional facilities environment

There is broad public recognition that correctional facilities house a particularly challenging sector of society. Individually and collectively prisoners present challenges to the order and functioning of correctional facilities.

It is also broadly recognised that many prisoners have disadvantaged backgrounds, come from marginalised groups in society and have a range of highly complex and constant needs. Additionally, prisoners are deprived of their liberty, confined to limited spaces for prolonged periods of time and live in close proximity with other prisoners with their own special needs. Together these conditions present challenging circumstances for the state of mind and behaviour of prisoners and in particular, for prison staff.

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The correctional facility environment in Queensland private correctional facilities is typically characterised by:

- *Conflict and violence;*
- *Overcrowding;*
- *Prisoners isolated for prolonged periods of time and living in close proximity (“Double-ups”);*
- *Chronic understaffing;*
- *Elevated risks to the safety of prison staff.*

Understaffing

Operators of private correctional facilities in Queensland owe a fundamental duty of care to all staff to operate and maintain safe staffing levels at all times to the extent that civil liability and statutory liability legislation dictates.

United Voice considers that operators of private correctional facilities in Queensland have failed to operate and maintain safe staffing levels.

Symptomatic of chronic understaffing and where operators have too much autonomy to be held accountable emerges an elevated risk of corrupt behaviour and practices. We are concerned that operators of private correctional facilities condone and in many instances, encourage the following behaviours and practices:

- *Excessive use of force on both compliant and non-compliant prisoners; and*
- *Misuse of authority or power to threaten or harm prisoners; and*
- *Misuse of authority or power to threaten or harm other prison staff; and*
- *Threats to prison staff to turn a blind eye to the use of excessive force; and*
- *The concentration of delegated power into the hands of a few senior prison staff who act beyond any delegated authority “protected group” at the direction of prison management; and*
- *Prison management and senior prison staff direct prison staff to amend or misrepresent “Incident Reports”; and*
- *Threats to prison staff to turn a blind eye to wrongdoing; and*
- *Non-reporting of incidents or wrongdoing; and*
- *Under-reporting of incidents or wrongdoing; and*
- *Misusing information.*

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Example- 1. Year - 2017

..... "I work in a 24 man Unit. This has now grown to 40 prisoners and has been that for a good while. With the assistance of the Union we now have a rover between my unit and the next door unit. This was given to us because we are doubled up, therefore the rover helping to share the extra workload with a big increase in prisoners. However we only see our rover at best 1 hour per day in an 11 hour shift. The unit next door has the rover for the same period.

We are left to try and do the work ourselves without any help. We have fights regularly, staff threats, we are working against work place health and safety guidelines. The jail is overcrowded and understaffed.

No matter how we try to address this situation with the company the rovers continue to be taken from us. They are being used for escorts, urine tests, breach hearings, strip searches and various other duties to fill in positions so that the company does not have to call in extra staff and pay overtime. The company is also happy to unlock the prison with 8 staff short in the morning. This is also a workplace health and safety issue".

Example- 2. Year - 2017

..... "In recent weeks management has failed to fill posts, as you are aware. This obviously adds more workload and risk to the staff who are turning up to work. Staff are frustrated that there seems to be little we can do to force the GEO management to do the RIGHT thing which would include rolling unlocks and cancelling Cultural Centre, Programs and Church. It would be great to have enough staff to run these post but a safety first approach is needed or may I say is a must. The ongoing issues of not seeing "Mikes" continues".

..... "We're running 7 staff short out the back, and XXX just emailed me and said they are 2 short on front run. We need to do something, this is unacceptable. And VERY UNSAFE!!!!

..... "2 days in a row of having no rover in a prison location... Hard work...mostly from supers and managers not informing what is going on... having to constantly ring to find out who is coming to help!"

..... "2 short on front run again, Zulus taken for PAH escort".

..... "9 short down the back"

..... "I think we ended up 10 or 12 down today due to codes 17 all told. W3 and W4 ended up with 138 prisoner with 3 staff as the rovers and 1 staff were used for escorts. I was glad the day ended".

Example- 3. Year – 2017 and 2018

..... *“Use of rovers- management using rovers for many uses so they are not available when required at units causing unsafe units”.*

..... *“the management response when safety issues are raised- “if you don’t feel safe you shouldn’t be working here”.*

.... *“on the floor alone with up to 68 prisoners at times”.*

.....*“Officers feeling unsupported by management and second guessing themselves in a prison with increasing incidents”.*

.... *“Bullying by managers”.*

.... *“Inexperienced officers being made up to supervisory positions as they are “Yes” men”.*

Overcapacity

As with other jurisdictions, Queensland is experiencing growing overcrowding in its correctional facilities. In Queensland, prison overcrowding has had impacts on infrastructure and resourcing. In a number of high-security correctional facilities, this has resulted in people “doubling-up” in a cell originally built for one person. As prisoner numbers continue to exceed the capacity of correctional facilities, this increases the risk of conflict, violence and serious assaults against prisoners and staff.

Regular and close interactions

Within the closed correctional facility environment, staff interact daily with prisoners and each other to supervise and monitor their safety and well-being, and to ensure prisoner security. Many tasks, including removal of clothing, searches and restraints of prisoners involve close physical contact between staff and prisoners. In the unpredictable, and sometimes volatile and dangerous environment, such interactions present high risks to the abuse of staff power.

Example- 4. Year – 2017

..... *“I observed prisoner (de-identified) being escorted from D4/5 to C4 office whilst on the oval with C6 prisoners. A short time later we returned to the unit, on the way back I observed a gate unlocked. I noticed (de-identified) and he advised to go tell (de-identified). I went to enter C4 but observed (de-identified) AND (de-identified) and unknown staff with prisoner (de-identified) who was seated and cuffed to the front. I observed (de-identified) to get angry and approach (de-identified) right in the face yelling the grab him by the neck and force him to the ground whilst continuing yelling at him. I left immediately and told (de-identified). C/S (de-identified) wrote a case note in regards to said situation however left out what (de-identified) did”.*

Example- 5. Year - 2017

..... "I attended a code in A5 which ended up being a staff assault. When I arrived prisoner (de-identified) was already on the ground however not cuffed. I helped holding his feet in a figure 4 until cuffs were applied. I remained as he continued to struggle. I observed (de-identified) a senior prison staff member who is considered to be in the "protected group" kick the prisoner in the back of the head at least once. I then observed him leave the cell and fix himself (His hair, tuck his shirt in and put his tie back on) then turn to (de-identified) and advise to turn the handheld camera back on. Then entered the cell as if he hadn't been there and spoke to the prisoner about the incident. I was then removed from the cell. Once I returned to A4 I told my offside (de-identified) what happened and he told me that's why he didn't want me responding to codes in A5 as that sort of stuff happened all the time."

High risk environment for prison staff

For private prison staff, the work environment is such that there is typically a much higher proportion of prisoners than staff members and one where they persistently face intimidation, threats to their personal safety and assaults. This high-risk environment can increase occupational stress, undermine job satisfaction and reduce commitment to their jobs and organisation.

This high-risk environment also fosters an extremely divisive workplace and work culture amongst prison staff. It is often suggested that prison staff members persistently face intimidation, threats to their personal safety and assaults from other prison staff.

United Voice is concerned that this high-risk environment creates a protected group of senior prison staff whom operate beyond the delegated powers under the CS Act, but within the protected embrace of senior correctional facility management.

Significant role of information records

In their role, prison staff access, use and share confidential and sensitive information relating to prisoners. This information is needed to facilitate a variety of system decisions, including security classification, transfers and eligibility for parole. Given that prisoner records include private personal information (e.g. address and criminal history), health-related information (e.g. physical and mental health diagnoses and course of treatment) and legal information (court orders and upcoming legal proceedings), this information forms a significant part of a prisoner's profile upon which decisions are made during their time in a correctional facility and after their release.

The highly confidential and sensitive nature of prisoner records, and the potentially high-stakes decisions that rely upon these records, makes this area vulnerable to corrupt activities in

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correctional facilities. Staff may inappropriately access information for non-work related purposes, particularly if they lack an understanding of information security management. This opens up risks for, either deliberate or inadvertent, unauthorised disclosure to others. If confidential information becomes known to others in prison, it can affect the way a prisoner is treated by other prisoners and may harm the order and functioning of the correctional facility.

There are instances where prison staff use their discretion about how a matter is represented or recorded in official records. As such, there are opportunities to present information in inaccurate or misleading ways to intentionally influence an outcome. The abuse of prisoners' records can seriously undermine prison security or impact on prisoners' chances of rehabilitation while in a correctional facility.

Example- 6. Year – 2018

[REDACTED]

Under-reporting

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Example- 7. Year 2017

[REDACTED]

.....*“there have been several instances of misuse and inappropriate access of “Integrated Offenders Management System (IOMS)”.*

.....*“the inappropriate access of IOMS has been dealt with inconsistently by prison management”.*

.....*“there needs to be clearly defined guidelines regarding access to IOMS. The unclear guidelines does not clearly define the boundaries for IOMS use for both Unit Officers and non-custodial staff who have more regular reason to access”.*

United Voice - Recommendations

United Voice considers that there are several significant structural changes that should be adopted that would limit the risk of corruption in privately operated corrective services facilities which would include:

Recommendation 1 – Public Reporting, transparency and corporate governance

To restore confidence in the safety, efficiency and legitimacy of correctional facilities in Queensland we recommend that privately operated corrective services facilities are subjected to public reporting and public disclosure of the following (non-exhaustive):

- Facility operational performance;
- Key performance indicators (KPIs);
- Critical prisoner incidents¹ and response;
- Critical staff incidents² and response;
- Prisoner complaints;
- Staff complaints;
- Investigations and outcomes.

Recommendation 2 – Prison ratios

To restore confidence in the safety, efficiency and legitimacy of privately operated correctional facilities in Queensland, we recommend that control measures (e.g. Legislation) are introduced to mandate prison and prison staff number ratios. This legislative requirement would reduce the autonomy of privately operated prisons to determine appropriate staffing levels and confer a statutory obligation on operators of private correctional facilities in Queensland to operate and maintain safe staffing levels at all times. Operators would be required to undertake periodic risk and compliance analysis of inmate numbers, staff numbers and incidents and prepare a publicly available report on a quarterly basis to QCS.

Recommendation 3 – Install accountability mechanisms

To restore confidence in the safety, efficiency and legitimacy of privately operated correctional facilities in Queensland we recommend that QCS adopt more stringent independent accountability mechanisms and control measures to proactively investigate, assess and if necessary case manage allegations of misconduct and corrupt conduct.

¹ Schedule 4, CS Act defines "incident" to include a death, escape or attempted escape, riot or mutiny or another event involving prisoners that the chief executive considers requires being investigated by inspectors.

² Ibid.

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These accountability mechanisms and control measures should be designed to be independent and confine the significant autonomy that operators of private correctional facilities benefit from to matters that are not at risk of corrupt practices or corruption.

In conjunction with our Recommendations 1 and 2, in our view these measures would install independent regulation and oversight, transparency of reporting, accountability and reduce the significant autonomy that operators of private correctional facilities benefit from.

Conclusion

United Voice and our members support the measures and functions performed by the CCC and in particular the examination of corruption in Queensland corrective services facilities.

When it comes to the safety of our members at work, we welcome any advance in standards of integrity and conduct in private correctional facilities in Queensland.