VISITING EXPERTS' PAPERS

PRIVATE PARTICIPATION IN THE TREATMENT OF OFFENDERS: CONTRACTING PRIVATE OPERATORS IN CRIMINAL JUSTICE

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ABSTRACT

Over the past decade, governments have been forced to critically review the way they manage their economies in the face of growing international competition. Debt reduction and taxation imperatives, coupled with raised community expectation of value of money from its public sector, has underscored profound changes in the form and nature of government worldwide.

In Victoria, the Kennett Government since 1992 has pursued a significant government reform agenda. Reforms within the criminal justice system have been an important part of this 'change' agenda. Contractualism and privatisation are now integral elements in the oparation of Victoria's justice system, especially the key aspects of policing and correctional management. While the signs are positive, the changes have required a fundamental policy rethink in such areas as contracting out, accountability, risk management, regulation and performance monitoring. There is no doubt these issues will be the subject of on-going debate well into the next millennium.

I. INTRODUCTION

Public administration worldwide has been the subject of revolutionary change over the past decade. Privatisation, corporatisation, outsourcing, outcome/output budgeting and accrual accounting are but some of the contemporary business concepts that are now the hallmark of modern government administration. Past practice no longer provides an adequate basis to ensure the future viability of the public sector.

A special edition of "The Economist" in September 1997 entitled "The Future of the State", succinctly summarised these changes in quite dramatic terms:

> *"... the State is in retreat. At the turn of the millennium, it is argued, governments are confronted by two old enemies, stronger now than ever before: technology and ideology. The State is proving unequal to the challenge. Its power to rule is fading.*
>
> *A new industrial revolution is under way. Advances in computing and telecommunications press relentlessly on, eroding national boundaries and enlarging the domain of the global economy. Increasingly, these changes render governments mere servants of international markets."*

In the face of international competition, governments have realised that a high debt burden and high taxing regimes undermine the country's level of competitiveness. Increasingly, governments are wrestling with the paradox that voters want lower taxes but want more public spending. This has required governments to examine the breadth of responsibilities they have accumulated over the years, to shed more peripheral functions and to ensure residual

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functions operate efficiently. Over the past decade, there has been a greater questioning of the efficacy of big government and critical comment about public monopolies which, being free from pressures to innovate or become more efficient, have been shown not to offer value for money to the communities they serve.

II. REFORM OF GOVERNMENT

In the 1980s, there was recognition in the UK and Europe that the high level of government spending could not be sustained. The Thatcher Government in the UK introduced radical reforms in a bid to reduce public spending, which in 1980 comprised 43% of GDP. Similar programs were pursued to a lesser extent in France (55%), Italy (52%) and Belgium (54%). Government's transferred the delivery of services to the private seczWr {B withdrew from service delivery altogether.

In the USA, where big government had not been a feature of the American political landscape, there was nevertheless ongoing voter pressure to minimise taxation and increase the responsiveness of the public sector. In 1992, the seminal work of David Osborne and Ted Gaebler titled "Reinventing Government" took the world by storm. Osborne and Gaebler identified ten principles around which entrepreneurial public organisations are built:

1. *Steering more than rowing.*
2. *Enpower communities rather than simply deliver services.*
3. *Encouraging competition rather than monopoly.*
4. *Being mission driven rather than rule driven.*
5. *Funding outcomes rather than inputs.*
6. *Meeting the needs of the customer not the bureaucracy.*
7. *Concentrating on earning not just spending.*
8. *Investing in prevention not just cure.*
9. *Decentralising authority.*
10. *Solving problems by leveraging the market place, rather than simply creating public programs.*

"Reinventing Government" became the required reading of politicians and bureaucrats alike following the book's publication. The sentiments of the book hit a chord with many in government and in communities around the world.

Within Australia, various Federal and State Commissions of Audit Report's recommendations echoed the book's major thrust. In 1995, the Council of Australia Governments (COAG) endorsed the National Competition Policy (NCP) Report of the Independent Committee of Inquiry (the Hilmer Committee) set up in 1993. The NCP established consistent principles governing pro-competitive reform of government enterprise and of government regulation. It was agreed that all Commonwealth and State legislation would be reviewed to ensure it did not unnecessarily restrict competition.

The NCP Independent Committee of Inquiry summarised the merits of competition in the following way:

> *"Competition provides the spur for businesses to improve their performance, develop new products and respond to changing circumstances. Competition offers the promise of lower prices and improved choice for consumers and greater efficiency, higher economic growth and increased employment opportunities for the economy as a whole".*

The Hilmer Committee was at pains to

stress, however, that it did not support totally unfettered competition and indicated there were *bona fide* reasons where governments would need to intervene in specific markets with the intention of protecting the public interest or for generating other benefits for the community as a whole or from particular sectors of the community. The committee commented:

> *"Competition policy is not about the pursuit of competition per se. Rather it seeks to facilitate effective competition to promote efficiency and economic growth while accommodating situations where competition does not achieve efficiency or conflicts with other social objectives. These accomodations are reflected in the content and breadth of application of pro-competitive policies, as well as the sanctioning of anti-competitive arrangements on public benefit grounds".*

Implementation of the NCP was underwritten by the Federal Government through the allocation of substantial funds to States/Territories to address transitional costs and negative revenue implications arising from the adoption of the NCP.

Following the Victorian State elections in October 1992, the Kennett Liberal/ National Coalition Government proceeded swiftly with major reform of the public sector. In the face of a $32billion State debt, significant budget cuts were made to government departments, programs were reduced or axed, services were outsourced, many statutory authorities were corporatised and there was a concerted effort to privatise electricity generation and supply, and gas retailing.

In 1993, the Victorian Commission of Audit set the tone for subsequent change through its identification of the key principles for public sector reform:

- a preference for market mechanisms;
- empowered consumers;
- minimised government regulation;
- clear accountability for results; and
- professional and buisiness-like management of public agencies.

The "steering not rowing" metaphor soon translated to a notion of "purchaser/ provider split" whereby the purchaser of the service would not also be the provider of the service. In a market context with multiple suppliers, governments were seen to be able to maximise public benefit in the purchase of services and avoid the downsides of departments as single service providers.

The privatisation of government services in Victoria over the last six years has been significant and has touched all Ministerial portfolios. Major changes have occurred in the following areas:

- utilities;
- communications;
- roads;
- trains, trams and buses;
- regulation and inspection;
- welfare services;
- educational and training services;
- health services.

In addition, there has been signficant privatisation and contracting out within the Justice portfolio in such areas as:

- corporate services (payroll, human services, audit, building maintenance, fleet management);
- the police airwing;
- computer aided dispatch of emergency vehicles;
- staff training;
- prisoner transportation;

- the operation of police traffic cameras and the administrarion of the enforcement of on-the-spot fines;
- the management of police custody centres;
- building, owning and operating three of the State's thirteen prisons;
- building, owning and operating the proposed new County Court complex.

The results of the overall Government reform program have been impressive. The State debt has been reduced from $32billion to $11billion, Victoria has moved from being the highest taxing State, unemployment has fallen below the national average and there is growing confidence in the business community (both locally and internationally) that Victoria is a good place in which to invest.

The Productivity Commission's 1999 report to COAG on the benchmarking of government services confirms the pre-eminence of Victoria in many of the key performance indicators (in relation to the benchmarking of a broad range of government services).

The reforms however have not been without their critics. The speed and breadth of change, the quantum of the budget cuts, the apparent primacy of economic imperatives driving so much change, and the extent of privatisation have been the subject of much community debate.

Perhaps one of the most controversial reforms has been the Kennett Government's prison privatisation program. It is a program worthy of further analysis, as in many ways the issues with private prisons resonate in character with other reforms within the Justice portfolio.

III. THE PRIVATISATION OF VICTORIAN PRISONS

Before the Kennett Government's election in 1992, the Victorian prison system was the responsibility of the Office of Corrections. The previous Cain/ Kirner Labour Government had made major investments in the construction of four new prisons at a total cost exceeding $170million. Notwithstanding this investment, the large bulk of prisoners still resided in accommodation built in the last century.

The general productivity of the prison system was poor. Sick leave rorting by prison officers was rampant (average 28 days annual sick leave per prison officer at Pentridge Prison in 1992). The level of prison staffing was the subject of on-going tension between management and the unions.

Interestingly, the concept of contracting out was not new to the prison system. Private contractors provided many of the prison support services; health services were provided by the Health Department; and education provided by the TAFE Division of the Education Department. A separate statutory body (VicPIC) was responsible for prison industries and the delivery of many prisoner programs involved both paid staff and volunteers drawn from the wider community.

A key element of the Liberal/National Coalition party policy platform was the privatisation of elements of the prison system. It was envisaged that privatisation would reduce the annual unit cost per prisoner, provide comparative benchmarks against which to evaluate the performance of public prisons and, no doubt, break the stranglehold of union influence on the system. In addition, through the adoption of a build, own, operate (BOO) philosophy,

the Government was able to construct three new prisons which, given the size of the debt burden, would be unlikely to have been built for a considerable time. The BOO approach enabled the Government to transfer the construction and ownership risk onto the private sector. The issue of inadequate asset maintenance provision has long been a sore point with public sector managers. BOO projects eliminated these difficulties, as well as avoidnig any increase in State borrowings which was a key priority of the new Government.

So how does the new Victorian prisons system now work?

The amended *Corrections Act* 1986 gives the State direct authority for the security, safety and welfare of prisoners; and for the maintenance of standards, in both public and private correctional services. In 1995 the Office of the Correctional Services Commissioner (OCSC) was established to oversee the corrections system. The Commissioner is responsible for:

- strategic planning;
- developing and setting state-wide policy and standards;
- the management of prisoner sentences, including prisoner assessment, classification and placement;
- monitoring the delivery of correctional services by both public and private providers;
- advising the Minister (the purchaser) about each provider's performance and level of compliance with contractual obligations;
- providing overall leadership to the Victorian corrections system.

Specific prisoner health and welfare standards developed by the Commissioner's Offive include:

- prisoner access to programs which address issues related to their offending behaviour;
- prisoner access to personal development and life skills programs;
- provision of health care services which meet community standards;
- prisoner access to adequate fitness, sport and recreational activities;
- prisoners being given opportunities to develop the skills for employment after their release through access to both work experience in prison industries and education and training programs.

The Commissioner enforces a rigorous monitoring regime built around:

- clear specification of requirements of providers;
- monitoring providers from on-site observation and the analysis of performance date;
- validation of provider reports;
- provision of formal feedback to providers.

The Minister for Corrections, as the purchaser of services, has assigned the task of Contract Administrator to the Deputy Secretary, Justice Operations within the Department of Justice. This position is supported by a separate Corrections Contracts Branch. The role of the Contract Administrator is to:

- identify the correctional services to be purchased by the State;
- establish appropriate contractual arrangements;
- administer the contracts on behalf of the Minister for Corrections.

The Contract Administrator regularly reviews reports from the Correctional Services Commissioner concerning service providers' performance and levels of

compliance with their contracts.

The correctional providers within the Victorian correctional system are a mix of public and private providers. The public provider - the public Correctional Enterprise (CORE) - operates ten prisons and manages the State's community correctional services.

In addition, there are three private providers of prisons:

- Metropolitan Women's Correctional Centre (125 beds) - Corrections Corporation of Australia (opened August 1996);
- Fulham Correctional Centre (600 beds) - Australasian Correctional Management (opened April 1997);
- Port Phillip Correctional Centre (600beds) - Group 4 Correction Services (opened September 1997).

A preliminary observation of the multi-provider system relates to the impact that privatisation has had on CORE - The Public Correctional Enterprise. It is a great credit to the management and staff of CORE that they have responded to the challenge (or threat) in a very constructive and effective way. Many would not have anticipated how effective this response would be.

Institutionalised work and staffing practices have been reformed, facilities and services improved, staff attitudes and motivation improved and costs have been reduced substantially. These reforms could hardly have been contemplated in the traditionl monopoly system. These reforms give confidence to the notion that the public provision of prison services can continue in a multi-provider environment, where performance in terms of service quality and cost will be the bottom line.

The Victorian correctional model has been very deliberately designed to separate the roles of the purchaser and providers, with the OCSC playing the key system leadership role of policy, standard setting, performance monitoring and sentence management. The key responsibilities of the Commissioner (as outlined in Section 8A of the *Corrections Act* 1986), requires the Commissioner to exercise these responsibilities impartially between all providers. In allocating to the Contract Administrator the responsibility for managing the commercial and financial interests of the Government in the contracts, the integrity of the Commissioner's role in addressing the safe custody and welfare of prisoners is effectively preserved.

While there have been many calls for independent monitoring of prison performance, no other jurisdiction had implemented a model as definitive as that in Victoria, separating responsibility for safe prisoner custody and welfare from the responsibility for financial or budgetary targets for the system.

The contracts with the private correctional providers are built around a number of commercial principles:

- the Government purchases a comprehensive package of accommodation and correctional services from the provider over set contract periods for a defined prisoner population;
- the private provider owns the prison through an equity investment in the facility and the acceptance of design, construction, ownership and management risks;
- the private provider supplies new prison facilities and is responsible for their on-going maintenance;
- the private provider provides

correctional services, as well as health and prisoner programs, which maintain or enhance the standard of those available in public prisons;
- the private provider assumes the risks related to the development, ownership and operation of the physical plant and service delivery.

Each successful private provider consortium therefore owns the prison which has been built on crown land, leased to the provider by the Government. In these cases, the Government has contracted with the provider to supply both facilities and services. The provider is required to develop, maintain and operate the prison, including providing sevices and programs, which meet the Government's corrections policy objectives in relation to prison safety and security, accommodation, and rehabilitation of prisoner standards.

Contract payments to private correctional providers are divided into three categories:

- Accommodation Service Charge (ASC) is a monthly payment for the provision of correctional facilities to a Government specified standard - it is in effect a debt servicing and facility charge;
- Correctional Service Fee (CSF) is a monthly payment for the operation of the prison and the provision of correctional services, education, traning, health, and other programs;
- Performance Linked Fee (PLF) is an annual payment based on the achievement of specified outcomes for both prison facilities and services - it is in effect a return on investment payment.

A fundamental feature of the contracts is the focus on outputs and outcomes rather than the traditional focus on inputs and processes. Specific service delivery outcomes are specified which must be achieved to justify, for instance, the payment of the performance linked fee.

Both the ASC and CSF payments are affected by sub-standard provider performance. For example, non-availability of part of the accommodation could result in ASC and PLF payment reductions. While failure to comply with any of the forty-two prison management specifications for correctional services could result in CSF payment reductions.

To achieve full payment of the PLF, providers must achieve specified outcomes for accommodation and correctional services, as well as meet specified benchmarks in five key correctional services:

- prison operations;
- education and training;
- prison industries;
- health;
- other prisoner programs (e.g, drug education programs).

As a last resort, where the payment regime to a provider has apparently not worked, the prison contracts provide a default regime. The default process is most appropriately applied where there are significant and continuing issues that need to be remedied by the provider within a pre-determined timeframe. If the provider fails to address the issues within the stipulated period, a range of legal remedies are available to the Minister, including seeking damages, "step-in" provisions and contract termination.

In addition to the Minister's ability to reduce payments, a wide range of incentives and safeguards have been put in place to ensure private providers deliver the appropriate standard of correctional

facilities and services:

- the Government retains the right to re-tender the contract for correctional services after the initial 5 year period of the contract and every 3 years thereafter;
- overall responsibility for prisoners remains with the State;
- Government representatives have unfettered access to all aspects of the operation of a prison;
- all prisons are open to public scrutiny through the Official Visitors Scheme, FOI, the Ombudsman and visits by prisoner visitors, clergy, TAFE teachers, medical staff and various other community representatives;
- rigorous probity processes ensures that high standards apply to prison contractors, sub-contractors and all staff employed in prisons;
- the Minister has clear "step-in right" to maintain the security of the system, and can, in the event of a serious breakdown, take over the management of a prison;
- in defined adverse circumstances, the Minister can require the contracting consortium to remove the operator and appoint a new operator.

A number of commentators and academics have challenged the efficacy of the private prisons "social experiment" in Victoria. This is often done, it seems, without any appreciation of the safeguards of the Victorian Model, in particular the powers and status of the Commissioner in relation to the safe custody and welfare of prisoners.

Linda Hancock, University of Melbourne, in her paper "Contractualism, Privatisation and Justice : Citizenship, the State and Managing Risk" (Australian Journal of Public Aadministration - December 1998) provides a useful summary of the key issues of debate on privatisation. At the start of her paper she states:

> "*Much of the debate in Australia around contractualism has concerned human services. However, those opposing privatisation in justice argue that justice is different from other policy areas in that part of the work of justice departments involves the use of delegated sovereign power with the potential to discipline, punish and use force. They object to the principal (sic) of delegating the State's power to punish to private for - profit corporations*".

Hancock subsequently outlines the counter-argument:

> "*Others adopt the view that delegating the State's powers to private interests is acceptable, provided adequate accountability and regulatory structures are put in place. This view would dismiss arguments about an integral role for the State and actions of non-delegatable powers (i.e, to punish) as unfounded.*"

In concluding her article, Hancock gives the impression she believes that the jury is still out on the privatisation reforms in justice, especially in relation to key issues of "*accountability, quality of service delivery, service gaps, balancing civil rights and budget efficiencies, ethical issues and issues of democratic governance*".

It is worth briefly pondering these issues, as they tend to recur through many of the contemporary writings about private prisons.

A. Accountability

Prior to the advent of private prisons, the accountability for the prison system

was vested with the Minister for Corrections and the Director-General of Corrections. The Director-General issued Director-General Rules which operationalised elements of the Corrections Act and set guidelines for the general operation of prisons. They were procedural in nature and contained few quantifiable performance measures.

A separate inspectorial unit would conduct an intensive inspection of each prison over a two to three year cycle. Prisons were required to report incidents as they occurred but there was no requirement for monthly performance reports. Prisoner regimes were left largely to the discretion of the Governor and out of cell hours were very much determined by the prevailing staff levels.

The onset of private prisons introduced a discipline that had previously not been present. Because of the contractual nature of the relationship between the State and private prison providers, greater specificity was needed in relation to all aspects relating to prison design, facilities and prisoner services. No longer could the correctional system rely on informal and ill-defined prison specific arrangements. Contractors wanted to know what outputs and standards were required before they would commit on price.

A much tougher and specific prison monitoring framework was established requiring detailed monthly reporting by contractors, on-site monitoring and service validation audits by both the Commissioner and the health authorities in relation to health services.

It is interesting to note that the private prison providers comment that the breadth and depth of reporting and monitoring in Victoria are more intense and demanding than in other States or in overseas prison systems.

The various other accountability processes that existed previously in the public prison system have also been retained. One suspects the Government understood the potential political risks of privatising prison management and developed a "belt and braces" approach to the issue of accountability. It would be difficult to conceive how prisons could have been subjected to more accountabiliy.

There appears to be a misconception that Government has abrogated its responsibility for prisoners once they are placed in a privately operated prison. This is clearly not the case. The Commissioner's responsibility for the sentence management function encompasses ongoing responsibility for the classification and placement review, as well as monitoring prisoner welfare through on-site monitoring and other review processes outlined earlier. The Commissioner maintains an ongoing oversight and interest in the progress of every prisoner throughout the sentence to ensure proper placements are made in each case and outcomes delivered.

A good deal has been written and said in the Victorian media about the performance of the three private prisons in Victoria. It is necessary to make a number of observations about this media coverage.

The first observation is that the progressive commissioning of three private prisons, representing 45% of the prison system, over the period from August 1996 to December 1997 was always going to be a significant challenge. The fact that it was done quite deliberately, with staff that were new to prison work in order to minimise the transfer of the "old culture", did not make the task any easier.

Secondly, the media and interest groups pre-occupation with private prisons certainly highlighted the incidents that did occur. It is apparent that the first year or so of commissioning new prisons was clealy a difficult time, as was illustrated by the commissioning of the Silverwater publicly operated facility in New South Wales. The final judgement about public versus private prison performance cannot be realistically made on the basis of the performance in the year of commissioning, but rather on the sustained performance over at least two to five years. Those claiming otherwise are either exposing an ideological bias or are unwilling to accept change.

Thirdly, the evidence in Victoria is that a multi-provider environment is now delivering real and sustainable benefits in service and cost terms.

B. Quality of Service Delivery

The quality of service delivery in prisons is monitored by both individual prison management and by the Correctional Services Commissioner. Health service quality is scrutinised by the Department of Human Services.

The experience in dealing with private operators in Victoria belies this fear that many have. A well developed contract, combined with thorough and well structured monitoring, has shown that the focus now being made on quality far exceeds the assurance that was ever available in this regard under traditional monopoly provider systems. Monitoring needs to be well targeted to key issues and based on an open approach that rewards sustained good performance. The incentive for providers to maintain quality services is a multi-provider business environment that is subject to thorough monitoring are self evident, and the cynical view that the first priority of private providers is to cut costs is not well founded.

A visit to any prison in Victoria, public or private, would challenge the objective observer to discern material differences in the quality of the services between the two categories of providers.

C. Service Gaps

The Government made a major investment in planning and policy development to underpin the privatisation of nearly half of its prison system. Every aspect of a prison's operations were identified, analysed, specified and standards defined. Forty-two prison management specifications were defined and standards set. Each private prison was required to develop an Operating Manual around these management specifications and this Manual is, in part, the basis for the evaluation of each prison's performance.

The prison operator specifies the "how to" in terms of inputs and processes, whereas the Government specifies the outputs and outcomes required. The operator has 'ownership' of the inputs and processes and carries the related risks.

D. Balancing Civil Rights and Budget Efficiencies

The Corrections Act specifies not only the legislative parameters for the Victorian prison system but also defines prisoner rights (Victoria was the first State to legislate prisoner rights in the mid-1980s).

The Corrections Act makes no distinction between public and private prisons on the issue of prisoner treatment. In agreeing on a contract price for a private prison, the Government has needed to satisfy itself that the provider had the appropriate capability to deliver the services required. The capacity of the bidder to provide a service at the price quoted was an important consideration in contract evaluation.

Again, the argument that the profit motive will result in a diminution of prisoner rights in private prisons has not proven to be the case. There is considerable evidence that the quality of prison environments, for instance, in terms of hours out of cells and access to training programs has considerably improved. The consequences of non-compliance with legislative requirements would simply not be risked by the operator. Empirical evidence would suggest that the profit motive is acting as a key focus on private prison operators to pay close attention to causal factors of tensions within the prison and to adopt management and early intervention regimes to prevent more untoward prisoner behaviour that impact on prison operations.

E. Ethical Issues

The issue of ethics may arise in two significant ways in relation to private prisons.

Firstly, the ethical standards that apply in the management of contact dealings when tenders are let for private prison consortiums. In Victoria, a rigorous probity process saw a high quality approach to the letting, evaluation and selection of successful tenderers. This probity review is ongoing and any change in ownership or key personnel is subjected to critical review. Failing to notify such changes has serious contractual consequences.

Secondly, there is the ethics that operators of prison of bring to the way prisons are managed. Neither the Commissioner's Office, Official Visitors, the Ombudsman nor Chaplains have reported ethical breaches in the conduct of any of the State's private prisons. Contrary to the perception created by interest groups and the media, a wide range of groups visit prisons on a regular basis. In addition, there is a constant movement of prisoners between prisons, as well as visitors to prisoners. There is no evidence that ethical standards are being compromised. The ethical standards of the operators is something in which they place great emphasis given their active ongoing involvement in tending for new business around the world. Unfavourable publicity about their ethical standards would, without doubt, hamper their chances in any future bidding process.

F. Democratic Governance

In large part the issue of democratic governance relates to the issue raised by Hancock in her paper over the capacity of the State to delegate its power to punish private for-profit organisations.

This is a fundamental issue. This is why in the Victorian model the role of the Commissioner in managing the sentence given to the prisoner by the Court is critical. It is the Commissioner who acts to ensure that the sentence of the Court is properly implemented, not the prison operator. It is also the Commissioner who decides the placement of the prisoner and periodically reviews this placement. The "delegation" to the operator of the prison is defined by the provisions of the Corrections Act, publicly available service standards and operating manuals, and is the subject of substantial accountability and monitoring regimes.

Perhaps the most controversial issue that arises with privatising in government relates to the conflicting ideals of the people's right to know, the public interest, and "commercial confidentiality" of the private prison contacts. In Victoria, the bulk of the private contact details and related documents have been released to the public, however, provisions dealing with security matters and specific commercial details have not been released. There is no answer to this conundrum that

will be acceptable to everyone. Commercial contractors when bidding for government services do so in the full expectation that certain details of their bid remain confidential. The community equally needs to be assured that the Government is achieving value for money when entering into contracts with the private sector.

There has been no complaint that the "product" specified in the project briefs for Victoria's private prisons was inadequate. Indeed, there is more information in the public arena about what prisoner services should be provided then has ever previously been the case.

The issue seems to be how to engender public confidence that what should be done is, in fact, being done. This is not a new issue, as it has also existed in relation to the traditional monopoly provision of prison services. The introduction of private providers has, it seems, brought a heightened level of suspicion, at least in some quarters.

Perhaps there is a middle path where an independent broker, such as the Auditor-General, can validate the overall efficacy of private prison contracts, without revealing the commercial details of the contract. It is important that the community has confidence in the privatising of services while private contractors can confidently bid for government work on the understanding that competitors are not privy to their pricing details.

IV. SUMMARY

Public administration has been the subject of rapid and substantial change over the past decade. Governments have been confronted with the full force of globalisation. To remain competitive, Governments worldwide have taken difficult decisions to reduce debt and minimise taxes. As a result, the role of the public sector has changed remarkably.

In Victoria, the public sector has been at the cutting edge of reform over the last six years. The Government has pursued a significant program aimed at increasing the productivity of the public sector. A major part of the reform program has been to privatise significant aspects of government services, including a range of services within the Justice portfolio.

The privatisation of around 45% of the State's adult prisoner capacity has been the focus of many debates. The advent of three new private prison operators since 1996 has required the development of more rigorous and transparent design and operational standards for prisons, introduced new and additional accountability mechanisms, and provided an imperative for the public prison system to become more efficient, responsive and innovative.

While the transition to a new multi-provider system has not been without its problems, overall results to date would indicate that the prison privatisation "social experiment" in Victoria is bringing substantial benefits in terms of service quality, innovation, responsiveness and reduced costs.

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