THE RECENT AND CONTINUING INTRUSION OF THE PRIVATE SECTOR INTO Australian corrections is an issue of major concern to unions representing prison/correctional officers. The purpose of this paper, and our involvement in this conference, is to articulate and promote POAA policy and activity, particularly in respect to privatisation of correctional functions.

The Prison Officers Association of Australasia (POAA) is not a union in its own right. The POAA is an informal association of unions that represent prison officers in the Australian States and Territories. More recently, the POAA has invited the participation of the New Zealand Public Service Association, the Correctional Employees Association of Papua and New Guinea and sought the involvement of prison officers employed by the private sector.

The Association held its 1992 Annual Conference in Perth, Western Australia. The 1992 POAA Conference included representatives from all Australian States and Territories (except the Australian Capital Territory), New Zealand and (for the first time) Papua New Guinea. Prior to the 1992 Conference the Liquor Hospitality and Miscellaneous Employees Union affiliated in respect to its members employed in Queensland private prisons. Subsequent to the 1992 Conference, the Correctional Employees Association of Papua New Guinea have indicated the intent of the Association to affiliate with and participate in the activities of the Association. The continued participation of New Zealand representatives to POAA conferences is welcomed and their affiliation warmly invited.

The objectives of the Association are as follows. (Please note the objectives of the Association have yet to be altered to reflect expanded organisation);

- to foster and maintain harmonious relationships between persons employed in various States in prison or corrective services as designated by those States;
to improve and maintain, by all lawful means at their disposal the working conditions, salaries, increments (and protect the general interests of) participants member/groups;

to promote, develop and encourage the human treatment, care, custody control and supervision of incarcerated offenders;

to afford opportunities for individual members and participant groups, to acquire and diffuse knowledge and understanding of all relevant aspects of prison/correctional techniques and/or programs, and to arrange, where possible, the interchange of officers between States, to enhance this knowledge and understanding;

to consider and determine by means of annual conference, all such matters as are proposed by State or individuals, which in the opinion of the Executive Council affect the interests of the profession;

to provide, in so far as is practicable and possible, legal monetary or other assistance to member groups or states, such assistance to be determined by Executive Council;

to collect from participants a reasonable fee, and to judiciously use same to enable the Association to effectively function in the pursuit of stated objectives. Such fees to be determined each year at annual conference;

to standardise the rank of prison officers between States;

to consider the role of the POAA be a policy making body which makes recommendations to States which States may accept or reject. Where policies are accepted, the onus shall lie on the State for implementation.

The prison officers Association of Australasia current policy position in respect of private sector involvement in corrections is brief and to the point.
The POAA:

- opposes the privatisation of prisons and other corrections functions;

- will seek to ensure that appropriate unions provide competent/prison officers irrespective of whether they are public or private sector workers;

- invites the participation and affiliation of corrections/prison officers irrespective of whether they are public private sector workers;

- that the POAA Executive draft a detailed policy position on privatisation including a course of action to be pursued to achieve the objects of the policy once ratified by Affiliates;

- that the POAA calls on the Queensland Government to honour its pre-election promise to terminate the Borallon contract and prevent the making of profits from essential social services;

- the POAA calls on the Queensland Government to make available all and any information relating to the contractual arrangements and
obligations entered into by the previous National Queensland Government on behalf of the taxpayers of Queensland.

The policy position of the POAA reflects both union opposition to the privatisation of public services and a reaction to the intrusion or threatened intrusion of the private sector into the jurisdictions of unions affiliated to or associated with the POAA. It is appropriate to summarise the experience of prison officers and their unions in each of those jurisdictions.

Queensland

Subsequent to the commissioning and receipt of the *Kennedy Report* in 1988, the conservative Bjelke-Peterson National Party Government decided to privatise Borallon Prison. That Borallon Prison opened under the contract administration of Corrections Corporation of Australia in January, 1990. Upon election to Office, the Goss Labour Government failed to honour a pre-election pledge to discontinue the project.

Following failed negotiations between Government and the QSSU, the Goss administration in March, 1992 awarded the management contract for the Wacol Remand and Reception Prison to Australian Correctional Management Ltd.

Papua New Guinea

The Correctional Employees Association of Papua New Guinea, when contacted in respect to agenda items for the 1992 POAA Conference, cited the two major issues of concern to them as being privatisation and deregulation of the labour market.

New Zealand

Deregulation of the labour market in New Zealand continues to develop and it appears certain the conservative National New Zealand Government will proceed with the privatisation of at least two prisons and perhaps some operational aspects of the existing service.

New South Wales

The conservative Liberal New South Wales Government has made the decision to privately construct and operate the 600-bed Junee facility.

Northern Territory

In July, 1981 the conservative National Party Northern Territory Government called for expressions of interest in the design, construction and management of the new prison to be built in Alice Springs. Subsequent to discussions and negotiations with the Prison Officers Association, a sub-section of the Liquor, Hospitality and Miscellaneous Workers Union, that Government decided to maintain the ownership and management of the prison.
Victoria, Tasmania, South Australia and Western Australia

There have been no specific proposals in these States to privatise prisons. Prison officers and their unions in each of these States are aware that there has been active marketing by proponents of private prisons.

In those States, prison officers and their unions can cite many examples where the prospect of private prisons in part or whole has been used by government to influence the response of prison officers and their unions to almost every issue.

In Western Australia, the Hon. J. Berinson, Minister of Corrective Services, publicly instructed the then Executive Director of the Department of Corrective Services, Mr Ian Hill, to "consult with the Prison Officers Union to see if similar efficiencies as those reported in the private sector were able to be introduced" (Speech at Graduation Ceremony, Wooroloo Prison Farm, 1991).

Prior to proceeding to discussing union opposition to privatisation, it is worth discussing that aspect of POAA policy in respect to officers employed in prisons or correctional establishments owned or operated by the private sector.

In establishing the fundamentals of its policy, and that is all that exists to date, the POAA recognised that its responsibility in representing prison officers went beyond the public sector. Whilst the POAA is committed to the retention of correctional functions within the public sector and highly critical of and concerned about the intrusion of the privates sector into corrections, the POAA is determined to ensure industrial justice is delivered to officers of private correctional operations where they exist. The POAA in criticising and opposing the private sector intrusion into corrections is very keen to ensure that the integrity and competence of prison officers employed in the private sector is not tarnished or questioned merely by association.

Whilst for the purposes of this paper and conference, it is impossible to canvass in detail the Constitutions and policies of each of the unions affiliated or associated with the POAA. It is fair to say that those unions are supportive of a society, that is democratic, delivers legal, social, economic and industrial justice in the context of a mixed economy where the public and private sector co-exist in an appropriately regulated environment. The POAA is not blindly anti-private sector. It is opposed to private sector ownership and or management of correctional functions.

The Prison Officers Association of Australasia opposes the privatisation of correction activities and prisons in particular. The reasons for that opposition are wide-ranging and go beyond ideology.

Prison officers and their unions are justifiably concerned that the intrusion of the private sector into corrections represents a threat to existing wages and working conditions. It is interesting to note the recent development of private sector involvement in corrections. However, it is appropriate, in the first instance, to understand that private management of prisons is not a new thing.

Sarah Vallance (1991, pp. 397-8) in her prize winning essay, "Private Prison Management: Panacea or Pretence" cites eighteenth century literature
to demonstrate the appalling record of early private sector involvement in custodial matters. That record is one of non-payment of officers, brutal abuse of prisoners and appalling conditions for both.

Sarah Vallance points to more recent evidence where in the United States, privately managed prisons have operated since the mid-nineteenth century up to the 1930's when the US Government resumed total control for prison management. She cites one commentator who said of the abovementioned period:

> The history of private sector involvement in corrections is unbelievably bleak, a well documented tale of inmate abuse and political corruption. In many instances, private contractors worked inmates to death, beat or killed them for minor rule infractions, and/or failed to provide inmates with the quality and quantity of life's necessities (food, clothing, shelter etc) specified in their often meticulously drafted contracts (DiIulio 1988, p. 2).

The POAA notes that the recent trend toward the privatisation of corrections emanates from the United States of America and the South Eastern States in particular. The union movement needs no reminding that those States have a poor labour relations record, their race relations are appalling and in general, those States administrations are not in the vanguard in respect to the implementation of policies with social equity objectives.

The POAA notes that the most strident advocates of private sector involvement in corrections, other than the enterprises themselves, are conservative political forces also advocating and implementing deregulation of the labour market.

It is clear to prison officers and their unions that the motives of those who advocate deregulation and privatisation, go to the maximisation of profits through low wages structure. A low wage structure for prison officers will not advance the efficacy of corrections, it will in fact prejudice it.

The current New Zealand circumstances provides a timely demonstration of the destabilising effects of privatisation and deregulation. Whilst the officers of the New Zealand Department of Justice bear the brunt of staff shortages, they are being asked to accept a salary package that is a recipe for real wage reductions over time. Concurrent with facing those difficulties, New Zealand prison officers are being asked to believe their Minister's assurance that, "Private Sector involvement would not affect the jobs and conditions of those already working in the system".

The POAA joins the New Zealand PSA and New Zealand prison officers in opposition to the privatisation of New Zealand corrections and the implementation of low wages structures for prison/correctional officers.

It is appropriate to consider the actions of the private sector in other areas of the industry. The Australian Mining Industry did not traditionally have a regard for the environment. Reacting to public concern, Australian governments introduced a range of regulation measures to ensure that mining companies involved themselves in rehabilitation of areas mined. Mining companies vigorously opposed such moves. It is not now uncommon to witness sophisticated advertising campaigns by the Australian mining
industry and individual companies promoting themselves as responsible corporate citizens on the basis of post-mining rehabilitation, whilst at the same time running a constant campaign to be allowed to explore and mine in national parks and heritage areas.

The 1973 oil crisis hit New Zealand very hard. Oil companies were not highly regarded, being seen as overly powerful, as having little regard for the environment and generally not sensitive to the needs of the community in which they operated. Oil company market research identified that those attitudes existed. To remedy the situation and improve its public image, Mobil Oil NZ Ltd mounted a sophisticated public relations exercise involving a fuel economy advertising campaign, energy audits for commercial and industrial customers and the promotion of those activities to demonstrate to the community what a good corporate citizen it was. At the same time, that company was importing and marketing transformer oils containing polychlorinated biphenyls into New Zealand in the knowledge of their ban in the US.

Professor Richard Harding argues that private sector involvement in Queensland has not created an environment in which private sector correctional interests influence government correctional policy. He says, "There is no evidence to suggest that this is a problem in Queensland" and "This strongly suggests that whatever is driving correctional policy in Queensland, it is certainly not private prisons" (Harding 1992).

One would have to concede that at this point in time, his observation is correct, particularly in respect to rates of imprisonment. The POAA is concerned that this is a situation which will not endure given the expansion of private sector involvement of Australian corrections.

In their article "Corrections Commercial Complex", J. Robert Lilly and Paul Krepper (1992) describe the working of the phenomenon they have titled as the "Corrections Commercial Complex". They assert:

1. Each of the participants in the corrections sub-government share a close working relationship supported by the flow of information, influence and money.
2. There is a distinct overlap between the for-profit companies and professional organisations, and the interests of the professional organisations, and the interests of the federal agencies maintained by the flow of influence and personnel.
3. The corrections commercial complex operates without public scrutiny and exercises enormous influence over corrections policy.
4. The corrections commercial complex show signs of becoming a fixture within the national policy area of punishing lawbreakers as the participants define their activities in the public interest.

Lilly and Krepper (1992) claim that in the United States, there is a growing body of evidence to suggest that corrections budgets are soaring, there are disturbing amounts of waste and inefficiency, massive defects in new corrections construction and prison services. They report that Ohio,
California and Connecticut have cut millions from their education budgets while increasing their corrections budgets at unprecedented rates.

The POAA is of the view that the intrusion of the private sector into Australasian Corrections, combined with the social divisiveness of a deregulated low wage labour market, laissez-faire commercial environment and conservative sponsored "Truth in Sentencing" policies will see a substantial increase in corrections budgets at the expense of the provision of the more desirable social functions of Government such as Health, Education and Welfare Services.

The Prison Officers Association supports the comment of eminent criminologist, Sir Leon Rudzinowicz (1988). He has said:

In a democracy grounded on the rule of law and public accountability the enforcement of penal legislation which includes prisoners deprived of their liberty while awaiting trial, should be the undiluted responsibility of the State. It is one thing for private companies to provide services for the prison system, it is an altogether different matter for bodies whose motivation is primarily commercial to have coercive powers over prisoners.

The POAA is of the view that private sector involvement in corrections with its attendant profit motivation, has the potential to prejudice the humanitarian aspects of corrections. Earlier in this paper, reference was made to the denial of basic human needs in private US correctional facilities despite the authorities best endeavours to ensure those needs were provided for through regulating and contractual arrangements.

The POAA is concerned that any lowering of standards of care and provision of services has the real potential to prejudice the safety and welfare of officers employed in the institutions. That concern goes beyond questions of immediate safety, but also to the treatment of officers by the employer in the event of external criticism of a private institutions actions or lack of them. It is feared that employers of private sector officers may well "serve up" the officer in the event of an error or incident without proper access to due process and or representation.

Given that the privatisation of corrections has emerged from the South Eastern States of the United States, embraced by conservative laissez-faire anti union administrations in the United Kingdom, New Zealand, Queensland and New South Wales, union fears about the welfare of officers are legitimate. It has been cited by a number of commentators that undue union influence is in itself a factor positively influencing policy makers thinking toward private sector involvement in corrections. Professor Harding points to the observations of a number of commentators to demonstrate that "Custodial Staff have in the past tended to exercise undue control over programs and change" (Harding 1992).

The POAA is disturbed by such assertions, not so from the point of view that such assertions have an element of truth, but because privatisation is no remedy for such a cultural feature or for factors such as "subcultural or institutional myopia".
The POAA is of the view that if such features exist within the ranks of the public sector, then the potential for the same exists and indeed does exist within the private sector in other industries.

It is instructive to examine the West Australian experience of recent times. Recent visiting delegates, from all Australian States, Papua New Guinea and New Zealand, attended the POAA 1992 conference held in Perth, Western Australia. The Western Australian Prison Officers Union has received positive written and verbal comment from visiting prison officers in respect to both the operations and facilities of the Western Australian prison system as well as very positive comment about the Western Australian prison officers and their union.

The POAA is of the view that the current Western Australian corrections experience may provide the true legitimate alternative in terms of the change process required of corrections so that they deliver to the community and government a just, humane and cost efficient service.

Like other corrections systems, the Western Australian system is feeling the effects of the recession. The Western Australian Government is strapped for cash and has told government departments they must meet their budgets.

The 80s was a period of significant change for Western Australians' corrections. It was a period of rapid modernisation and expansion of physical facilities culminating in the opening of the new Casuarina Prison and the closure of the "Dickensian" Fremantle Gaol.

The Prisons Department amalgamated with the Parole Board and became the Department of Corrective Services which is divided into areas of Community Based Corrections, Prison Operations, Building Services and Corporate. The 80s was a period where the role of officers was expanded and enhanced with the implementation of unit management occurring progressively through the early 90s.

Early into the 1992/93 budget year, it rapidly became apparent that the Department would have trouble meeting its budget and its overtime budget in particular. Whilst there were initial differences of opinion between the Western Australian Prison Officers Union and the Department as to the cause for the budget difficulty and what should be done about it, an agreed cooperative approach to the management of the problem was negotiated.

What was agreed was that there would be an overall operational review conducted by a joint review group which would oversee joint institutional reviews at every prison. The rationale and progress of the project is as follows.

It is a process which involves everyone. Uniformed officers, their union and administration cooperating to achieve common goals. The goals include:

- cooperating with budget management;
- ensuring the budget is met and therefore ensuring there is no consideration of reductions in officers wages, conditions and entitlements;
ensuring the continued positive involvement of officers and their union in the decision making processes which affect their working lives;

- creating the opportunity to improve the working environment;

- ensuring that sick leave is not the result of poor job design, poor management, poor rostering, poor safety/security or misuse.

The process is not about:

- reductions in conditions;
- reductions in staff levels;
- the total elimination of overtime; or
- a reduction of or restriction of access to sick leave.

There are interesting features of the program which are worth noting:

- The process involves the tabling and discussion of the Department’s and individual institutions budget.

- The agenda, whilst the overall review group has set priorities is unlimited. The agenda is not confined to only traditional industrial issues, but includes all operational and administrative issues.

- The program is not short term and it is hoped that it develops into a truly consultative permanent feature.

Early results include:

- departmental directors and senior union officials addressing joint meetings of prisons administrative and uniformed staff to explain the process and seek positive participation;

- a prison superintendent and that prisons union representative jointly delivering a sophisticated proposal in respect of that prisons future operations to the Department of Corrective Services corporate executive and securing that executives support for the proposed program;

- the process also involves the back counting of operational matters agreed and implemented in the name of efficiencies so that they can be costed and "benefit reports" prepared for the Minister and Government.

The POAA is firmly of the view that genuine consultative labour relations is the true alternative to labour market deregulation, privatisation and unfettered management prerogative. Institutional or subcultural myopia can be overcome through information sharing, education and genuine participation. There is an enormous pool of unrecognised information and talent amongst the ranks of prison officers.

Correctional administrators and policy makers are urged to turn their attention to the world’s enduring successful economies, particularly those that
do not enjoy vast natural mineral or resource wealth. Those Northern European and more recently Japanese economies have, as an ongoing feature genuine participation and consultation with the workforce and their unions. They have not privatised their corrective functions.

There are a range of other issues of concern to the POAA with respect to privatisation that time and space prevent detailed discussion of here. It should be noted that POAA opposition to privatisation does not go to specific criticism of any of the companies currently engaged or proposing to become involved in Australasian corrections. That is not to say that will not be the case in the future as the track record develops or information comes to light about the proprietary or otherwise of their actions or modus operandi.

The POAA will actively involve itself in support of officers employed in private sector correctional enterprises. It is inappropriate that profitability comes about through the exploitation of workers through inferior wages structures and employment conditions.

The POAA is conscious that corrective services are not of themselves generators of revenue. Corrective services have very limited opportunities in this regard. Corrective services are paid for by the taxpayer. The private sector has a legitimate right to exist. Our view is that the private sector's proper role in a society with a mixed economy is to involve itself in the pursuit of profit through true wealth generating activities. The involvement of the private sector in corrections is not economic activity of a wealth generating nature. Rather, the intrusion of the private sector into corrections is more akin to a leech attaching itself to a living being and sucking its life blood with no return or benefit to the host.

The POAA is of the view that the current infatuation of conservative administrators with private sector corrective activities is resulting in misconceived social experiments already discredited in other times and places. Despite a slick public relations and marketing campaign, the private sector, nor governments involved with them can point to any demonstrable long-term benefits to society by the privatisation of corrective services or functions.

References


