



Prisoner Education NSW 2016

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Executive Summary

Prisoners, teachers, government bodies and enforcement agencies all agree on the need for education within the prison system. Education within prisons is instrumental to the successful rehabilitation of prisoners, contributing to the reduction in rates of recidivism. The purpose of this paper is to examine the role of prisoner education and proposed changes for the forum being held in the New South Wales parliament on the 23 of August 2016.

David Elliott, Minister for Corrections, and Commissioner Peter Severin announced the introduction of the 'Better Prisons' initiative in May 2016. This initiative includes changing the current education and vocational training system. Minister Elliot's media release, states that the aim of the initiative is to reduce adult recidivism rates by 5% before 2019.¹

This paper considers Elliott and Severin's proposed changes to prison education, and their potential to achieve the Government's stated goal of 'a prison system that accommodates more inmates, operates more efficiently, and has a greater focus on rehabilitation, without compromising safety and security'. The proposed reform is viewed as an abandonment of the state's obligations to rehabilitate and reform prisoners.

The proposals introduced in the Better Prisons initiative include the removal of 132 of the 152 total teachers within the NSW correctional facilities.² Administrative clerks will replace half of the removed teachers, and the provision of adult education and training will be outsourced to private providers who may not necessarily employ qualified teachers.³ It remains unclear whether the hired staff will be required to have teaching degrees or relevant teaching experience. Private providers are driven by profit considerations and are less likely to offer quality, tailored education within the prisons.

Under these proposals, most of the funding for education will be relocated to vocational training and basic education for inmates. Higher education will not be offered in most correctional centres, except for four specialised intensive learning centres under the care of Corrective Services (Lithgow, Wellington, South Coast and Mid North Coast Correctional centres).

This paper raises a number of concerns about these proposals and the impact they will have on the quality of education provided to the inmates of NSW's correctional centres. In addition to the impact on the standards of education, the current situation of a ballooning prison population, currently over 12,500, and a recidivism rate of more than 40%, should be met by an increase, rather than a decrease, in the number of teachers in correctional centres.

¹ David Elliot, 'Improvements to inmate education and training' (Media Release, 10 May 2016).

² Lisa Visentin, 'Three quarters of teachers to be sacked from NSW prisons', *Sydney Morning Herald* (online) 10 May 2016 <<http://www.smh.com.au/nsw/three-quarters-of-teachers-to-be-sacked-from-nsw-prisons-20160510-goqvid.html>>.

³ The New South Wales Teachers Federation, 'Gaol education privatisation to impact prisoners and their teachers' (media release, 10 May 2016).

1) Right to Education

The access to and quality of educational services provided to those in the prison and mental health care systems is a topic of great discussion. Many in society view individuals within the prison and mental healthcare systems as undeserving of the ‘privilege’ that is education. However, education is not just a moral right but is also a legally recognised human right under Article 26 of the *Universal Declaration of Human Rights*.⁴ This article states that all humans deserve education irrespective of socioeconomic status and personal circumstance.

Furthermore, Article 6 of the *United Nations Basic Principles for the Treatment of Prisoners* states; “all prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.”⁵ Education does not merely refer to intellectual and academic progression, but rather, as a multifaceted concept that targets and promotes opportunity, growth, wellbeing and awareness, which is vital to rehabilitation. It should involve access to a variety of structured programs and unstructured learning hubs from which individuals can choose. The availability of choice provides individuals with the freedom of self-directed learning so that they can pursue interests directed at their own betterment and enrichment. It is through education that prisoners and forensic patients can increase the likelihood of successful and smooth reintegration into society upon release.

It has been claimed that the proposed changes will increase access to education and training. However, the figures suggest that the delivery of programs is unlikely to keep up with the ever-increasing numbers and demand.

The issues raised in this paper affect both male and female prisoners. However, there are some specific issues relating to women prisoners, which are dealt with in section four of this paper.

2) Reduce recidivism

Many research reports have demonstrated that prisoners who engage in adult education have a substantially reduced likelihood of re-offending. In addition, employment opportunities for participants increased.⁶

According to a study on the effectiveness of prison-based vocational training programs, offenders who take part in corrections-based employment programs have higher rates of employment and lower rates of recidivism, while experimental research shows evidence of a causal link between these employment programs and improved outcomes, focusing on motivation as the bridging factor between the two variables.⁷ There is variation in how offenders frame their participation in work and training and this may be a swing factor. In some cases, participation may be an early signal of identity change.

⁴ *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, 3rd sess, 183rd plen mtg, UN Doc A/810 (10 December 1948) art 26.

⁵ *Basic Principles for the Treatment of Prisoners*, GA Res 45/111, UN GAOR (14 December 1990) art 6.

⁶ Australian Institute of Criminology, Australian Federal Government, *Reducing recidivism through vocational education and training programs* (2008).

⁷ Education and vocational training have a positive role in reducing the criminal activity of offenders (Doris L. MacKenzie, Ph.D, “Reducing the Criminal Activities of Offenders” (2015) BOCSAR; Dr Robin Fitzgerald UQ, Dr Adrian Cherney UQ and Dr Maria Plotnikova UQ, “Signalling Desistance? The Role of Prison-Based Vocational Training” (2015) BOCSAR).

Education provision by highly qualified staff (all NSW prison teachers have Degrees in Adult Education) is crucial in meeting Corrective Services' stated aim of reducing prisoner re-offending. This is especially important with a ballooning prison population currently over 12,500 and a recidivism rate of more than 40%.

Quality adult education is critical for:

- Prisoners – through improving their knowledge, skills and capacity.
- Prisons – by reducing tension and assisting with the provision of safer environment by offering a productive way to spend gaol time.
- Community – releasing prisoners with skills and qualifications to adapt, and giving prisoners a chance to embark upon a more productive life, contributes to a safer society at large.

Permanent prison educators, due to their ability to re-schedule classes when required and being onsite, have the flexibility to continue to deliver courses, classes and education and employment counseling, despite centre lockdowns, wing closures and education unit closures. Prison educators are also heavily involved in case management processes along with custodial and other civilian staff, and their value lies in their experience within the prison system. The *Full House Report* states that educational programs are the key to successfully rehabilitating the offender, thereby combating recidivism.

3) **Government's proposal**

The government recently announced the termination of teaching staff from the state's gaols, reducing full time teachers from 152 to 20. The government calls it a major reform program that aims to lift performance and improve the efficiency of the prison system.

The decision from the government includes:

- The abolition of 23 Senior Correctional Education Officer Positions
- The reduction of Correctional Education Officers Positions from 39.8 to 4
- The reduction of permanent and temporary teaching positions from 98 and 11 to 16.
- The reduction of 152 full time positions to 20 positions⁸

Teaching roles will be kept in the Intensive Learning Centres but will be re-advertised.⁹ Teaching staff will need to reapply for the remaining 20 proposed positions under the new model, while the delivery of education and training courses will be outsourced to specialist training organisations.

There have been a number of vacancies across Correctional Centres but they were not filled in the lead up to this change. Approximately 25% of positions were vacant. Additionally, the Corrective Services NSW education and vocational training services for inmates will be outsourced to increase inmates' participation in vocational education and training activities.

⁸ Lisa Visentin, 'Three quarters of teachers to be sacked from NSW prisons', *Sydney Morning Herald* (online) 10 May 2016 <<http://www.smh.com.au/nsw/three-quarters-of-teachers-to-be-sacked-from-nsw-prisons-20160510-goqvid.html>>.

⁹ Department of Justice, NSW State Government, *Better Prisons: Overview – Factsheet #1* (2016).

Teachers working in prisons who deliver vocational education programs in art and music will be laid off as the government considers them less likely to be linked to future employment of inmates.

3.1 Claims #1 – Literacy and numeracy improvements

The government states that its proposals will double the completion rate of literacy and numeracy courses and increase the number of VET ‘activities’ by 20%. The statement released by the government is vague about what is included in the term ‘activities’.

Also, in an address to all staff, the Commissioner described the current education staff as ‘lacking in expertise’. However, the majority of the 158 teachers currently employed by corrective services were literacy and numeracy teachers. Deputy Secretary of NSW Teachers Federation Maxine Sharkey said it seemed odd to abandon the teachers who had gained experience of teaching literacy to inmates in favour of those with no such expertise. The new model includes 43 assessments and planning clerks and 24 education services coordinators. There is no indication, that these new staff would be required to have teaching experience or a teaching qualification and they will not provide direct education services.

3.2 Claims #2 - Limited teaching hours available in school holidays

The Minister for Corrections, David Elliott said there are limited teaching hours from December to January, and the months of April and July because of teacher’s holiday entitlements. Elliott argues that these patterns are not suitable for a prison because inmates do not have school holidays. Management has always mandated the partial closedowns of education in these periods. When gaols are able to schedule locally, education provision can be, and has been, scheduled for 50 weeks of the year. However, an article suggests that teachers are usually more available during this period.¹⁰

Moreover, the *Full House* report states that ‘Overall, the number of student contact hours increased in 2013–14, however, the participation figures dropped marginally from 36 percent in 2012–13 to 33 percent in 2013–14.’¹¹ Student contact hours delivered could have been greater had not some 16,040 teacher hours been lost in 2013–14 due to lockdowns, custodial post stripping and a hold on teacher recruitment action in 2013–14 due to the OS&P restructure. Nevertheless, the participating rate of eligible inmates is generally consistent with other states’.

There is scope to increase available teaching hours. Already in the Juvenile Justice sector year round teaching has been adopted.

3.3 Claims #3 – Redeployment of teachers

Staff will be able to apply for new and remaining roles. These roles are limited in number and far different in nature.

¹⁰ David Cole, ‘Jail ‘more complex than Minister thinks’ says union’ *Goulburn Post* (Goulburn), 23 May 2016.

¹¹ Inspector of Custodial Services, ‘Full House: The growth of the inmate population in NSW’ (Research Report, Department of Justice, April 2015)

The Specialised Intensive Learning Centres at Lithgow, Wellington, South Coast Mid Coast Correctional Centres will remain the responsibility of Corrective Services. As of the 11 April 2016, only four qualified teachers are assigned to each of the four centres. Other centres will be serviced by an external provider; there will be no teachers on-site but there will be a few education services coordinators and assessment and planning officers.

For those who do not apply or are unsuccessful, consideration will be given to redeployment within the broader Department of Education, where this is feasible. So far, the government has not mentioned anything about other job positions opening within the broader Department of Education yet or redeployment. The government has already decided to cut 132 of the 152 qualified teaching positions within the NSW adult prison system and the existing full-time roles will be reduced to 20 positions. Despite the fact that two-thirds of inmates possess below functional literacy levels, the government has decided to terminate highly qualified and experienced educators and invite private providers to provide educational services with no guarantee that such trainers would be qualified or experienced. Thus staff with 20 years of teaching experience will be required to retrain and their private sector replacements will be required to train to do their jobs. This transition will result in unnecessary disruption to the delivery of services to prisons all for ideological reasons.

3.4 Claims #4 – Art and music programs in prison

The Minister has said that inmate programs reflect the quantity of available teachers at a centre, rather than the needs of inmates. For example, between one quarter and one third of vocational education programs delivered by CSNSW teachers are in art and music rather than areas linked to inmate employment. Teachers dispute this, instead asserting that 95% of vocational training is in purely employment related areas.

Nonetheless this fails to appreciate the value of arts education; its contribution to the NSW economy is larger than many traditional industries. Further, art and music courses are used ‘to engage offenders in education programs when they have not had positive education experiences before their admission.’ Therefore, the provision of arts education is beneficial as a way to develop personality and to re-engage people in educational courses, as a pathway to enrolling in other courses that are more geared towards employment.

4) Current Issues in NSW

Many inmates enter the prison system with deficiencies in their education, having dropped out of school or having experienced disruptions in their studies. It is shown that two out of three prisoners in NSW do not have a functional grasp of language, literacy and numeracy; they are either at or below Certificate 2 level in the Australian Skills Quality Authority (ASQA) framework, therefore possessing below a functional level of Language, Literacy and Numeracy (LLN).¹² Therefore educational programs are the key to successfully rehabilitating offenders, yet cell overcrowding can prevent inmates from completing educational programs.

“Rehabilitation outcomes are also compromised when inmate numbers are increased without a commensurate increase in appropriate resources. Overcrowding limits opportunities for parole because access to required programs is constrained. Reduced access to work and limited contact

with families contribute to the creation of an unproductive environment.”¹³

4.1 Unmet demand for education

The 2015 ‘Smart and Skilled’ program no longer considers that inmates are disadvantaged, thereby forcing them to pay the full course fees. Fees for TAFE have increased, enrolments and course offering have fallen, and government funds are being redirected to private providers (many of these operate for profit), some of them even proving to have questionable quality and recruitment practices.

The increasing number of prisoners is another factor affecting access to education and training. The *Full House* report expressed concern about the unmet demand for education,¹⁴ a factor contributed to by the increasing number of people incarcerated without proportionate increases in resources. It noted that only one-third of inmates eligible for education and vocational training are participating in their chosen course. Completion rates for education courses at Parklea Correctional Centre are very low; due to the high proportion of remand inmates who are transferred to another centre or are subsequently released before they can complete their courses. No separate figure was given for women, but there was a recommendation to measure the unmet need.

Furthermore, current conditions cause inmates to become de-motivated. Due to the short period of free time out of their cells, prisoners are hindered from accomplishing the most basic tasks, including attending educational seminars. This has been demonstrated through a significant drop in the rate of completion for aggression and violence programs, which is a program imperative to rehabilitation.

3.2 Lack of Resources

Resources such as computers and the Internet are not yet widely available as part of the learning environment in correctional centres.¹⁵ So far, although there have been some trials, cell access is not yet available to prisoners in this State. The *Full House* Report emphasised that individual access to computers and online services was essential, and recommended that CSNSW ensure the cells in all new facilities are constructed with conduits for in-cell technology.¹⁶ (paras 6.55-6.57, recommendation 41). This is of particular importance to women prisoners who may have less access to programs because of the factors mentioned later. It is time to ensure that provisions are made for in-cell computer access for all prisoners.

Individual development comes from expanding one’s knowledge and obtaining new skills. It is therefore vital to provide offender-focused educational and rehabilitative programs to improve recidivism rates and increase welfare. Focusing on providing access to computers in cells would give people in prison the opportunity to learn and be productive, without having to leave their cells or worry about time constraints when computer use is available.

Installations have been made at Nowra and Cessnock but are not currently being used. In relation to Internet safety, the Justice Annual Report states that this should not be of concern as there are current technologies that carry the capacity to tackle this issue.¹⁷

¹³ Ibid 10.

¹⁴ Ibid 67 [6.50].

¹⁵ Secretary of the Department of Justice NSW, ‘Annual Report 2014-2015’ (Report, Department of Justice NSW, 31 October 2015) 55.

¹⁶ Inspector of Custodial Services, above n 4, 68.

¹⁷ Secretary of the Department of Justice NSW, above n 8.

As a result, individuals in prison will be more inclined to successfully complete their courses instead of dropping out. While the prevalence of computers in educational centres has increased over the past ten years, access to these varies due to staff shortages and lockdown times.

3.2.1 Prospective use of Technology

In the Full House Report it is stated that ‘with the rise of blended learning technologies and Massive Open Online Courses, the question is not whether computers should play a substantial role in educating inmates, but is how best to facilitate their adoption and use’. It is not clear whether this progress will continue as there are likely to be fewer teaching staff and it is unclear whether distance education will be discontinued, undermining the push for technological literacy and access.

3.3 Education and Women Prisoners

The issues raised in this paper affect both male and female prisoners. There are some specific issues however, which relate to women prisoners.

Prison education for women in NSW is not in an ideal position despite some good programs available that are designed specifically for female inmates. Work and educational programs should be culturally specific and designed for the needs of women prisoners so that they can break out of the cycle of offending. Yet our research reveals that women have lower access to education and training programs than men. This is due to women in prison choosing employment over full time education in a Corrective Service Industry. Women typically pursue employment in order to earn funds to purchase products such as hygiene items, snacks, writing instruments and food. The reason given was that they couldn’t make enough money to support themselves.

Changes reducing access to effective education should give rise to concern. In March 2016 there were 919 females in NSW Correctional Centre, representing about 7% of the total prison population.¹⁸ The increased numbers of women prisoners is mainly accounted for by an increase in those on remand.¹⁹

3.3.1 Participation in Correctional Programs

Many of the current programs aimed at reducing the risk of reoffending, and giving prisoners a better chance of securing employment on release are, in principle, available to men and women. These programs include the basic Equips programs, educational and vocational programs, and drug programs.

The Annual Report for 2015 shows that in the period 2014-2015, 933 women participated in educational and vocational training. Women represented 11% of total enrolments, roughly equivalent to the proportion of women in prison.²⁰

The data does not make it clear whether female inmates had equal opportunities to participate in all educational and vocational training programs or in programs to meet their specific needs. The Annual Report, Table 3.19, p 57, shows a decline in women participating in TAFE NSW short courses over the last year. There are at present four full-time Intensive Learning Centres for inmates with assessed low literacy and numeracy skills. Women inmates do not have access to these

¹⁸ BOCSAR, Thursday 28 April 2016.

¹⁹ Justice Annual Report, 2015, p 38.

²⁰ Justice Annual Report, 2015, 56.

Centres.

As a group, women prisoners have distinctive needs, which are relevant to the planning and delivery of education and other programs. Women have high levels of substance abuse, mental illness, and histories of disadvantage, violence and dislocation. A disproportionate number of inmates are indigenous women – around one-third of women in prison. [Justice Annual Report, 2015, p 38]. To meet these needs, women inmates should have access to programs that are designed specifically for their complex needs, programs which are sensitive to culture and gender, and programs which enable them to gain skills in non-traditional areas.²¹

Some current programs are designed to meet the particular needs of women. These include the Mothers and Children's Program at Emu Plains Correctional Centre and the Adventure Based Challenge. There are aboriginal cultural programs. The Bolwara Transition Centre has a high proportion of aboriginal women.²² There is also a specific drug and alcohol Program for women, Yallul Kaliarna, at Dillwynia Correctional Centre.²³ But it is not clear how many women have access to these programs, or whether all those that are eligible are able to participate.

The data in the Justice Annual Report regarding access to general education and training programs are not all gender disaggregated. However, available information suggests that women prisoners at present have less access to education and training. For example, it is claimed that at Silverwater Women's Correctional Centre hardly any women are undertaking full time education.

Women prisoners posit various explanations as to the lack of access. First, there are relatively few women, often held in small numbers, which makes it difficult to deliver a diverse range of programs to meet individual needs.

Another factor reducing access to education is that many women are on remand or have relatively short sentences. This makes it less likely that they will get effective access to education and training programs.

Another reason that has been put forward is that women choose employment in a Corrective Service Industry over full time education. It is claimed that they do this in order to earn funds to purchase products such as hygiene items, snacks, writing instruments and food; it is claimed that they would earn less by taking education.

In July 2012 at Silverwater Women's Correctional Centre not one woman out of the 250 women at the centre were undertaking full-time education. Since then, this number has not increased past eight at any one time. This seemingly low number further demonstrates that female inmates do not have the time or ability to afford to both complete a course and undertake work while serving their sentence. While the choice made by the prisoners is not under the control of the government, the government should bear some responsibility in introducing more influential and engaging programs for them to participate. Moreover, there are approximately more than 900 women currently within the NSW prison system. Of those, approximately only 25 to 50 women at any given time are offered apprenticeships or traineeships to complete an equivalent course that will further their education and prospects of work once their sentence is complete.

²¹ AIC *Good Practice in women's prisons: a Literature review* Bartels and Gaffney.

²² Justice Annual Report, 2015, p 38.

²³ Justice Annual Report, 2015, p 51.

3.3.2 Proposals

For many women, their offenses are often the result of significant underlying issues, such as drug or alcohol addiction and mental health problems. Many have been victimised by violence and have long experienced disadvantage.

The less than satisfactory situation in regard to education, the prospective reduction in standards, the relatively few female prisoners and their generally short terms, together with the large proportion of indigenous women suggest that women's access to education and training programs, and the effectiveness of those programs will be substantially improved if the women participate in those programs in community programs rather than within the prison system. Such programs can be more readily tailored to the specific needs of each woman.

This conclusion is entirely in line with the Bangkok Rules, where **Rule 60** Provides:

Rule 60: Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include, among others, **educational and training programmes to improve employment prospects.**

The earlier Corston recommendations were along these lines, and the Scottish Commission on Women offenders has taken the same approach.

3.4 Inmates Living with Severe Mental Illness

The World Health Organization (WHO) has noted that there are many factors that stem from imprisonment, which have a negative impact on mental health and individuals who have a mental illness.²⁴ Therefore it can be noted that pursuits and facilities such as education and educational resources in prisons can allow for meaningful activity and engagement to occur, which could have an impact on future prospects for employment and improvements for inmates living with severe mental illness, intellectual disabilities and cognitive impairment.

Furthermore, at a meeting on Thursday 12 May 2016, Helen Robertson, Correctional Education Officer asked this question to the Assistant Commissioner Anne-Marie Martin: "Dr Martin, a few years back you were the special guest invited by the inmates in the *Mental Health Unit* at Long Bay Hospital, to what we called 'Pizza Night' where inmates cooked a communal meal and give performances as after dinner entertainment. You attended along with Assistant Commissioner Luke Grant and were gracious enough to participate by reading a poem and Luke Grant played the guitar and sang a song. What you saw on display that night was literacy, numeracy, music, art and information technology all working together. The education staff there that night were not paid to be there. We came in voluntarily. And it wasn't a one off. We would do that three or four times a year. How can you ensure that the most vulnerable people in our gaols - people who have a mental illness through no fault of their own - will have access to such pro-social activities when you have external contractors coming in who are paid by the hour?"

The Assistant Commissioner had no answer. The activity described above was recognised by the state government when the then General Manager of Long Bay Hospital was a finalist in the 2013 NSW Premier's Awards for Public Service.

²⁴ World Health Organisation, 'Mental Health and Prisons' Information Sheet.

“Jeanine McGlenn - General Manager, Long Bay Hospital Corrective Services NSW | Attorney General & Justice - Jeanine McGlenn is the General Manager of Long Bay Hospital, where offenders with mental health disorders coupled with antisocial behaviours are incarcerated. These offenders lacked activities, which promoted prosocial behaviours. Through Ms McGlenn’s implementation of monthly social events, offenders were given an opportunity to be released from their cells to participate in creative activities. During these events offenders write songs, create music and art works, write jokes, poems and literature, and sing and dance. Through this they experience being autonomous individuals with goals, thereby increasing their self-worth. Jeanine did not waiver in her courage to persevere with the program and the offenders are now developing into goal orientated and self-directed community members.”²⁵

This kind of pro-social activity will not happen under the *Better Prisons Education Reform* because there will be no full-time educators to make it happen. Little if any education at all will be available for those living with mental illness challenges because difficulty with self-regulating behaviour will mean exclusion from mainstream goals centered around education by external providers. In fact, under the internal provider AEVTI, education was withdrawn from Long Bay Hospital after being deemed financially non-viable, and there has been an absence of teachers and education officers in that area for over 12 months as a result.

3.5 Inmates with Intellectual Disability and Cognitive Impairment

The *Additional Support Unit* (ASU) at Long Bay Correctional Complex comes under Statewide Disability Services (SDS) and houses 60 men with intellectual disability and cognitive impairment. There are two Special Education Teachers and one Correctional Education Officer attached to SDS (although the actual number of positions are 3 teachers and 2 EOs but it has always operated with positions unfilled) who run AEVTI literacy and numeracy classes; provide literacy support and in-class behaviour management to TAFE teachers; and co-facilitate the CSNSW Compendium of Programs such as the EQUIPS suite for management of addiction and aggression issues.

SDS submitted a proposal to retain qualified full-time education staff and Assistant Commissioner Martin rejected it. The Better Prisons Team wrote, “While the work performed by SDS education staff is acknowledged, retaining teachers and correctional education officers is not considered viable within the new education model. The education functions undertaken by SDS education staff will be provided through a combination of the Education Service Coordinator, Assessment and Planning Officer and an external provider.”

The new *Education Services Coordinator* (ESC) and the *Assessment and Planning Officer* (APO) positions require *no* teaching qualifications to perform the roles. When asked, CSNSW has not been able to give details on how the external provider will provide full-time special education teachers for inmates with complex needs and at what cost.

Commitment, consistency, trust, patience and time are the keys to delivering education to inmates with complex needs. This can only happen when inmates have access to a permanent education team adequately skilled and qualified to work with people with special needs.

²⁵ www.publicserviceawards.nsw.gov.au/winners/2013-winners.

5) Case Studies

5.1 Jeffrey McKane

Jeffrey McKane was a law student who was prevented from continuing his study by Corrective Services NSW. He challenged this decision in the Supreme Court and was unsuccessful. Justice Action enrolled him as a distance student at Southern Cross University and facilitates his education. This case indicates the inherent difficulty of having access to education whilst in prison.

McKane was registered in a law degree at the University of New England prior to his incarceration. Goulburn Correctional Centre permitted McKane to complete a subject in Tort Law, which prior to being incarcerated, he had been studying. However, upon his completion of the subject, he was told he could not continue with his studies. After repeated applications to the prison staff and the Commissioner for Corrective Services, he remained unable to continue his law studies, nor is he able to engage in any other education for the purposes of rehabilitation, such as art.

In 2014, McKane applied to the Supreme Court by way of a summons seeking orders for CSNSW to grant him access to recommence his studies. However, a decision was made on 12 June 2015 that the matter could not be pursued, as the court could not engage in a merits review of the decisions made by CSNSW. Following this decision, McKane was ordered to cover the costs of the proceedings. McKane has also been denied access to the education block this year, which limits his access to a computer. In the wings there are only two computers available, which are shared between approximately 160 inmates. Thus, McKane has no other access to computers in order to study.

McKane has also been told that there are limited resources and that the facility would not be able to provide materials for him to study and download the required lecture materials. However, this issue can be resolved through the self-funding of his study. McKane has suggested that changing the current printing arrangements for inmates combined with the potential for the required materials to be placed on a CD-ROM by the university or by Justice Action would remove any drain on resources. On 9 July 2015, Justice Action asked CSNSW to indicate what money CSNSW was required to pay for McKane's cost of obtaining necessary resources. The Commissioner denied McKane permission, despite his willingness to pay for his own studies using the money that he makes from working in the textiles factory, along with assistance from the Justice Action team and family support.

Through Justice Action's intervention, as of 25 May 2016, McKane was given access to study a law course at Southern Cross University (SCU). Justice Action is incredibly thankful to SCU for recognising McKane's immense potential. Justice Action supported McKane's educational endeavors by accessing online lecture materials on his behalf, taking responsibility for his student email and administrative matters, as well as providing a retired teacher (linked to the Teachers Federation) to supervise and be present during McKane's examinations.

The letter from the Director of Corrections Executive Services & Complaints Management to Jeffrey dated 1 August 2016, stated 'The General Manager, Goulburn Correctional Centre has advised you (Jeffrey) do not have approval to undertake distance education. Should you wish to pursue written copies of all required course material (textbooks). CDs are not to be viewed on inmate computers. Therefore, any information contained on CDs must be printed by Southern Cross University or Justice Action.'

Justice Action said it will continue the support to Jeffrey and views this case as an important precedent, as it concerns educational access in prisons.

5.2 Women in Prison - Rachel Stancombe

Rachel is an advocate for other prisoners, a peer Mentor (constantly referring other women to WIPAN), and is very passionate about furthering her education and staying engaged with her children. The CJC has presented her case to the Law and Justice Committee on 15 March 2016.

She is currently serving time at Dillwynia with a prospective release date in 2018. This is her second period of incarceration. Rachel has a history of drug use and has three children – seven, six and four years old (all now living with Rachel’s mother). Due to the distance, they can only visit Rachel once a month. Rachel is highly motivated to rise out of her history of drug use and crime. She wants to use this period in prison to gain an education and confront her drug use. Rachel reads and writes proficiently and has completed her Certificate III in Business. She wants to study social work at university or Community Services at TAFE and recently asked WIPAN how she could get started on this whilst still in prison. In the meantime, Rachel is working in the kitchen - which she describes as “a big mistake.”

Rachel, unfortunately, was made to choose between work, education or completing a drug and alcohol program while serving her 4.5-year sentence. The opportunity to complete more than one of these is impractical with the time restrictions and resources offered in the correctional facility. Rachel has chosen to work whilst in prison, in order to help provide for her three young children, as well as to have some financial security upon her release. Like the majority of women in prison, Rachel receives little financial support from the outside. Rachel needs to purchase her own essentials from the prison buy-up system, which is another reason she feels obligated to work in the kitchen. This has resulted in an inability to study, which would enhance her prospects of employment once her sentence is complete.

Dillwynia offers the opportunity for women to complete the Higher School Certificate (HSC) through TAFE. It also offers computer, art and pottery courses. However, most inmates are only given the ability to complete no higher than a Certificate II or III TAFE accredited course, when community employers expect a minimum of a Certificate IV, diploma or experience in order to employ these women coming out of prison. Therefore, the education currently being offered to women in prison is unlikely to lead to employment upon release.

Currently, those participating in education services in NSW Correctional Facilities are provided with \$24 to \$32 per week, as opposed to the \$65 earned per week by women who work for the correctional service industry during their sentence. This difference in weekly wage can lead to the preference among inmates to work instead of study. A usual workweek within the prison system consists of a shift starting at 8am and concluding at 1:30/2pm Monday to Friday, with lock in the afternoon commencing at 3:30. This leaves the inmates between 1 to 1.5 hours in the afternoons to engage in study.

Access to a computer as a resource inside her cell, which she would share with another prisoner, would mean that Rachel would not have to choose between employment, education and drug and alcohol rehabilitation. With the same safe server system that has operated in the ACT since 2009 she would have access to these services and be able to complete her desired course outside of her work schedule. Rachel could be charged a weekly use of the computer, as happens in the ACT, just as TV’s are currently hired in NSW prisons.

The completion of a certificate IV or diploma requires more than 12 months of study, however the majority of women within the NSW Corrective Services are serving between 6 months and 12 months. This time restriction automatically excludes certain courses for women that require longer study periods or are not serving sentences long enough to complete their desired course. Moreover, further study and education is currently only offered to inmates within minimum security, however Rachel is contained in the medium security classification. This is another barrier to Rachel's possible rehabilitation.

5.3 High Risk Management Correctional Centre

Inmates from the High Risk Management Correctional Centre (HRM) sent a letter, expressing their frustration towards the current system of prison education. More than 20 prisoners are accused of terrorist offences and are affected by the withdrawal of education.

The Commissioner stated that 'High Risk Management Correctional Centre (HRM) has [seen] no reduction in staff time or other educational resources but HRM does not have the resources to support students to undertake distance education due to an increasing requirement by distance education providers for students to have access to electronic resources.'

One case is particularly well documented. In 2016, the subject was officially informed that education would no longer be provided in the prison, except for basic literacy and numeracy programs equivalent to late primary school level. From 2012 to 2014, he had successfully completed a Certificate 5 in Permaculture in the prison through Albury TAFE, however he found the process of applying for the program extremely difficult and time-consuming. Commencing the course required months of inquiring with numerous TAFEs and universities to find one that could accommodate the inmate's restricted circumstances of custody via distance education.

The process of enrolling in distance education is lengthy. The procedure requires inmates to ask the education officer to print out the listing of distance education courses provided by various institutions. There is only one education officer assigned at that centre, which makes the process lengthy. Inmates then have to handwrite an "Expression of Interest" letter to those institutions, which describes, among other details, their incarceration conditions and restrictions, as well as including a request for a method to do the courses. Successful applicants would then have to write to the management at HRM to enrol in the course. It takes weeks to months to receive a reply from the management and, most of the time, nine out of 10 applicants are rejected.

In 2014, after he completed the Certificate 5 in Permaculture, the subject spent another 10 months trying to find and enrol in another course. Once he had enrolled in a course, the security manager of HRM then informed him that the Assistant Commissioner suspended his course due to resource issues, with no further explanation. The next year, he sent a letter to the Commissioner appealing to Corrective Services NSW to provide means for further education and to investigate the matter. Unfortunately, the subject has had no reply in recognition of this communication to date.

This year, he was accepted to enrol in a number of courses offered in several Universities but HRM decided they would no longer provide pathways for inmates to study through distance education due to resource issues. There is no education offered in HRM. The most an inmate can receive in the form of intellectual or mental stimulation in the prison is the opportunity to read a book from a number provided at the gaol, watch television or buy a newspaper. All these alternatives are a privilege subject to good behavior. Recent prison reform measures, including

the cancellation of distance education in prison, is disappointing and does not help prisoners to pursue education opportunities that facilitate their reintegration into the society.

Exacerbating these concerns is the federal government's announcement of the implementation of indefinite detention for convicted terrorists who have been deemed 'not rehabilitated'. The implementation of such policy impacts numerous sections of the population within the justice system, with irreversible ramifications. Passing such legislation heightens a distortion of the separation of powers and the influence the government has on the administration of justice.

Inmates face the further issue of overcrowding in prison. Irrespective of the changing of laws, overcrowding presents a safety concern for all prisoners, not just offenders of terror crimes. The Overview of Inspector of Custodial Services Report April 2015 warns 'where the state treats inmates in a way that denies them a modicum of dignity and humanity it should not be surprised if they respond accordingly.' This is reflective of the reduction in facilities, services and removal of programs that benefit these individuals.

5.4 Letter from May Butler

May Butler received a letter from an inmate who is currently serving a prison sentence exceeding 10 years and who has completed two university degrees during his custody. She contacted Justice Action to express her frustration at the changes to education in NSW prisons. She does not believe the private education providers can do the job better than the current, qualified teachers. Also, she believes it takes a significant period of time and effort for a teacher to build the trust required with an inmate to convince him/her to give education a try. The vast majority of inmates are from the lowest socio-demographic backgrounds and/or have mental health issues. Many inmates fear education due to bad childhood experiences and will not attend classes without a trust-based relationship with teachers. The current teachers not only understand this, but also have developed over many years (or decades) the skills to deal with inmates' insecurities.

Butler's particular centre has six teachers (both part-time and full-time) who work together to ensure that all the services that inmates require are delivered. What is concerning, however, is that the new system, which will be introduced in February, will see all teachers removed from this centre entirely, and in their place will be a single clerical assessor who will liaise with the private providers without any requirement for a degree. Butler also argues that simply helping people to read and write does not prevent them from reoffending. Butler believes inmates who can already read and write, or who have completed their School Certificate or Higher School Certificate (HSC) need to complete higher qualifications in order to ensure that they can compete in the job market upon their release. In her centre almost 20% of the population are undertaking self-funded university degrees. These inmates will have to abandon their studies at the end of the current semester as there will be no staff available who will be able to access the University online portals to check discussion forum topics and liaise with lecturers.

Butler urged the abandonment of this reform because taking the only thing inmates have and, in most cases, their day-to-day support outlet will increase aggression and violence from both an inmate-on-inmate and inmate-on-staff perspective.