

# Effects of the Privatisation of Prisoner Education in NSW Correctional Centres

Community Justice Coalition 2018



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# Aims

The aim of this paper is to:

Evaluate the impact of the privatisation of prisoner education;

Evaluate the quality and delivery of provided educational programs, to ensure better future accountability of educational providers;

Evaluate the impact of the interim period between the dismissal of CSNSW teachers in December 2016 and the introduction of BSI Learning programs in September 2017 and

Provide recommendations for the betterment of the prisoner education program based on analysis of BSI Learning programs and expert opinion.

# Introduction

The effectiveness of the justice system hinges on its ability to adequately prevent recidivism. The education of prisoners is essential to achieving that goal. Australia is a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>1</sup>, in which Article 13 states that individuals have a right to education,<sup>2</sup> and if access to an educational institution is unavailable, then distance education should be available in the alternative.<sup>3</sup> Article 26 of the Universal Declaration of Human Rights, also identifies that “everyone has a right to education”.<sup>4</sup> It is this understanding of Australia’s international obligations that motivates an evaluation of the effects of the privatisation of prisoner education programs.

It is imperative to acknowledge the benefits of a comprehensive, integrated and varied prison curriculum in achieving positive outcomes for the community as a whole and the prisoners themselves. Education provides prisoners with employment prospects and a positive outlet during incarceration by equipping them with the necessary skills to successfully reintegrate into society upon release. On average, the rates of recidivism for prisoners who have participated in correctional education programs are 43% lower than those who have not.<sup>5</sup> Similarly, the chance of re-incarceration within three years of release is 13% lower, and the odds of securing employment post-release is 13% higher, for those who have participated in such

<sup>1</sup> Attorney General’s Department, Australian Government, *Right to Education* <<https://www.ag.gov.au/RightsAndProtections/HumanRights/Human-rights-scrutiny/PublicSectorGuidanceSheets/Pages/Righttoeducation.aspx>>.

<sup>2</sup> International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).

<sup>3</sup> Ibid.

<sup>4</sup> United Nations, Universal Declaration of Human Rights < <http://www.un.org/en/universal-declaration-human-rights/>>

<sup>5</sup> Davis et al., Rand Corporation, Evaluating the effectiveness of correctional education: A meta-analysis of programs that provide education to incarcerated adults (2013) 32.

programs.<sup>6</sup> As such, correctional education is instrumental in reducing recidivism rates and increasing the rates of securing employment post-release.

The provision of education in prisons by Corrective Services NSW (CSNSW) has undergone significant restructuring since May 2017. During this time it was announced that BSI Learning had obtained the contract to be the main education provider in NSW prisons. This resulted in the privatisation of prisoner education and, most significantly, the replacement of university-qualified education officers with trainers who hold a Certificate IV in Training and Assessment.

This report seeks to provide information on key performance indicators in order to evaluate the impact of the privatisation of prisoner education programs in NSW, in particular the structure administered by BSI Learning. The paper will primarily focus on teacher qualifications and the inability of the new system to meet the broad socio-economic needs of prisoners. This will involve a discussion of prisoner literacy and numeracy rates, and the lack of diversity in course options. By comparing the curriculum and structure of the current scheme against national and international teaching standards, through both direct observation and student and teacher evaluation, this report will clarify the quality of the education provided beyond the statistical inferences of supposed success publicised by Minister for Corrections, Mr David Elliot.

Although it is beyond the scope of this report, it is worthwhile to note that the provision of quality corrective services education is cost effective. Using the direct costs of correctional education programs, the Rand Report calculated that in order to ‘break-even’, education programs need to reduce the rate of incarceration by 1.9-2.6%.<sup>7</sup> This clearly indicates that providing correctional education is a cost effective long-term plan.

At the completion of this report, a series of recommendations, based upon analysis and expert opinion, will be presented with the aim of reforming and expanding the current educational opportunities available to incarcerated persons.

## **History - A Compromised Education System**

In 2016, the Government proposed the Better Prisons initiative, which involved a move towards privatising prisoner education. In May 2017, the Minister for Corrections, David Elliott, announced that

<sup>6</sup> Ibid 39, 43-44.

<sup>7</sup> Ibid 38.

BSI Learning had won the contract to provide education in NSW prisons. The contract between Corrective Services NSW and BSI Learning is worth \$27,000,000.<sup>8</sup> Consequently, 132 out of the 152 total qualified teachers were removed from NSW correctional facilities.<sup>9</sup>

BSI Learning has been operating in Queensland Corrective Services for over 16 years, and has been the provider of vocational education and training over the past 10 years<sup>10</sup>. A number of issues have arisen with the privatisation of prisoner education and the implementation of BSI Learning as the main provider of prisoner education. This report attempts to identify and address these main issues and concerns.

A limited number of credited teachers remain in the Intensive Learning Centres at Wellington, Lithgow, Mid North Coast and South Coast Correctional Centres.<sup>11</sup> Their aim is to provide full time education to prisoners and the attainment of nationally accredited certificates to assist inmates in developing social and learning skills to continue with further education and or employment.<sup>12</sup> CSNSW initially stated that they would retain 20 teachers for the aforementioned purposes; however, only 10-12 teaching positions have been filled according to the NSW Teachers Federation.<sup>13</sup>

The Minister for Corrections, David Elliott claimed that the change in prisoner education would double the number of inmates completing literacy and numeracy courses, stating:

“Corrective Services NSW plans to increase the number of inmates participating in education and training by 20%, making offenders job-ready upon release, more equipped to integrate into society and less likely to reoffend.”<sup>14</sup>

“The number of inmates completing literacy and numeracy programs has increased by 53% since I have been the Minister.”<sup>15</sup>

<sup>8</sup> Department of Justice, Education and Vocational Training Services - DJ 2016 – 73 (19 June 2017).

<sup>9</sup> <<https://tenders.nsw.gov.au/justice/?event=public.cn.view&CNUUID=A5D8A175-DB7F-AB73-0F927BCF113309B4>>.

<sup>9</sup> Michelle Brown and Philippa McDonald, ‘NSW to spend \$237 million on compulsory rehabilitation for prisoners’, ABC (online), 31 August 2016.

<sup>10</sup> David Elliott, ‘Improving Inmate Literacy and Numeracy’ (Media Release, 24 May 2017).

<sup>11</sup> Refer to Appendix B.

<sup>12</sup> Corrective Services NSW, Education Programs and Services (10 June 2016)<<https://www.correctiveservices.justice.nsw.gov.au/Pages/CorrectiveServices/programs/adult-education/adult-education.aspx>>.

<sup>13</sup> Statement from Teachers Federation NSW.

<sup>14</sup> Elliot, above n 10.

<sup>15</sup> Evidence to Portfolio Committee No. 4, Counter Terrorism, Corrections, Veterans Affairs, Parliament of New South Wales, Sydney, 4 September 2018, 29 (David Elliott).

However, concerns still remain over the shift towards a profit-focused education system as well as the quality and service of education to prisoners being significantly compromised by the privatisation of NSW prisons. These issues will be addressed in this report.

## **1. Assessment of Prisoner Needs Upon Reception**

A computerised process has replaced the previously personalised assessment procedure for language, literacy and numeracy skills. The new computer-based test asks prisoners to select the correct answer from one of six possible statements. This system decreases the quality of assessment as it allows for guesswork, and fails to assess writing skills in any capacity. Furthermore, the lowest grade attainable by prisoners is a 'Level 1'. Such indiscriminate categorisation prevents those who are essentially illiterate from being appropriately identified and educated. Ms Maxine Sharkey, from the Teacher's Federation has stated, "the computerised assessment inflates the rate of success and then overlooks the genuine needs of the most needy inmates."<sup>16</sup> Thus, core components of literacy and education for incarcerated persons have been neglected because computerised assessments inaccurately represent educational competence in inmates, failing to identify their education needs and ultimately impeding the development of their skills.<sup>17</sup>

Furthermore, as reported in the 'Budget Estimates 2017-2018 Supplementary Questions Legislative Council Friday 29 September 2017':

A mass-sacking of qualified teachers occurred in December 2016;

TAFE was hired between January 2017 – June 2017 to provide training and education services;

BSI Learning was awarded the contract in May 2017, with the full range of programs rolled out in September 2017;<sup>18</sup> and

According to Hon Shaoquett Moselmane MLC: "Corrective Services NSW teachers have continued to deliver education programs in the Intensive Learning Centres at Wellington, Lithgow, Mid North Coast and South Coast Correctional Centres. Corrective Services NSW has a Memorandum of Understanding with TAFE NSW".<sup>19</sup>

<sup>16</sup> Ms Maxine Sharkey for the NSW Teacher's Federation (Speech delivered at the Expanding NSW Prisoner Education Opportunities Forum, NSW Parliament House, 26/09/18).

<sup>17</sup> University of Leicester, *What is Computer Assisted Assessment?*

<<https://www2.le.ac.uk/Members/rjm1/talent/book/c3p2.html>>.

<sup>18</sup> Budget Estimates 2017-2018 Supplementary Questions Legislative Council Friday 29 September 2017.

<sup>19</sup> Refer to Appendix B.

Evidently, there were a number of issues that were not accounted for during the interim period of the removal of qualified teachers in December 2016 and the implementation of BSI Learning's programs in September 2017. It appears that no courses were offered between the sacking of teachers in December 2016 and the rehiring of TAFE services in January 2017. It must also be noted that TAFE does not provide Language, Literacy and Numeracy services. This highlights the need for increased care and focus on the prisoner education system along with the necessity of basic levels of education at all times.

## 2. Access to Education

Access to education is essential to prisoner outcomes after their release. Dr Anne-Marie Martin, for Corrective Services NSW (CSNSW), stated BSI Learning delivers “services for learning opportunities to increase literacy and numeracy skills.” She affirmed that every prisoner in the system can access Certificates I and II in literacy and numeracy. Further education is conducted in the Intensive Learning Centres by CSNSW staff in four prisons only. Previously, there were also opportunities for distance education with outside institutions supported by CSNSW staff. The opportunities are much more limited now, and in some prisons not supported at all, due to decreased staff levels with distance education provision being designated a non-core activity. This means almost no education is available above Certificate I and II.

The current model has significant shortcomings in delivering educational outcomes. The highest level of qualification offered is only at the Certificate II level which is not offered at all prisons. The courses run in 10-week blocks, and requires the participation of at least 6-10 students. This is in contrast to the flexibility that was available before privatisation, where classes would run with smaller numbers, at alternating times and for students at all levels.

In addition, until recently, there were minimal mechanisms in place to accommodate inmates who speak English as a second language; a clear obstacle in achieving increased learning opportunities. Disturbingly, there are no inmates receiving ESL provision at this time despite the urgent need for prison survival as well as long term rehabilitation needs. As of 15 October 2018, TAFE NSW began conducting Basic English language courses for inmates who require speaking support to participate in present correctional and future employment environments.<sup>20</sup> Mr Guy Zangari, the Shadow Minister for Corrections, has stressed that without foundational literacy and numeracy knowledge, inmates would not be able to successfully fulfill vocational roles.

Dr Martin asserted that the agreements with BSI Learning and TAFE NSW “involve opportunities and training in a variety of vocational areas, including “cleaning operations, hospitality, kitchen operations and food safety”. She also anticipated that the introduction of in-cell technology would expand educational opportunities.

<sup>20</sup> Community Justice Coalition correspondence with Dr Anne Marie Martin.



## **2.1 Access to Education on Remand**

Dr Martin stated that people on remand for more than six months have access to all educational programs at any correctional centre. People on remand for less than six months have access to a Foundational Skills Package, if identified by staff as being in need. Independent support staff and prisoners have strongly disputed this assertion, regarding it as a statement of principle that has not been implemented in practice.

Corrective Services NSW has acknowledged that "...more is required for people in custody who cannot participate in learning opportunities at a certificate level."<sup>21</sup> There has been discussion surrounding collaboration with the Literacy for Life Foundation to better aid those that need assistance with improving basic skills prior to attempting a Foundational Skills Package.<sup>22</sup> Experts have criticised this suggestion, as it would result in the prisoners who need the most help being educated by volunteers rather than professionally qualified teachers.

## **3. Qualification of Teachers**

Ensuring that teachers have the necessary qualifications is crucial to ensuring the highest level of education in the prison system. The minimum accepted qualification of teachers prior to the privatisation of educational provision was that of a university degree ("Full-Time Equivalent [FTE] Teachers") whereas the minimum qualification for BSI trainers is a Certificate IV qualification. Furthermore, according to Hon. Shaoquett Moselmane MLC, "BSI is required to meet standards set by Australian Skills Quality Authority (ASQA)... BSI Learning Trainers are required to hold qualifications as described in the Standards for Registered Training Organisations (RTOs) 2015."<sup>23</sup> Evidently there has been a shift in teaching standards as a result of the privatisation of prisoner education.

Mr Zangari has highlighted this detrimental shift, arguing, "When you remove qualified teachers from a system...you really undermine educational opportunities"<sup>24</sup>. This emphasizes that qualified teachers invest in students under their care in a way that vocational trainers simply do not, given their focus is limited to competence. Further, Ms Sharkey, Deputy Secretary of the NSW Teachers Federation, criticised the government for "outsourc[ing] public employment wherever possible, ... [with] no

<sup>21</sup> Martin, above n 20.

<sup>22</sup> Ibid.

<sup>23</sup> Refer to Appendix B.

<sup>24</sup> Mr Guy Zangari (Speech delivered at the Expanding NSW Prisoner Education Opportunities Forum, NSW Parliament House, 26/09/18).

commitment to education”<sup>25</sup> and characterised this policy choice as an ideological one. Thus, she highlights the imminence of specialist teaching qualifications to improving and sustaining a reasonable standard of prisoner education.

According to Hon. Shaoquett Moselmane MLC: “BSI is required to meet standards set by Australian Skills Quality Authority (ASQA)—the national regulator for Australia's vocational education and training sector. ASQA regulates courses and training providers to ensure nationally approved quality standards are met. BSI Learning Trainers are required to hold qualifications as described in the Standards for Registered Training Organisations (RTOs) 2015.”<sup>26</sup>

The current information on education programs, sourced from Chapter 8 Corrective Services: Report on Government Services (ROGS) 2018, states that there are four types of programs offered: Pre-certificate Level 1 courses, Secondary School Education, V.E.T, and Higher Education.<sup>27</sup>

According to the BSI Learning tender, the number of BSI Learning trainers proposed for Corrective Services was: 15 full time trainers, 5 full time project team members, 15 part time trainers and admin staff, and a team of contract trainers and staff, should the work load increase.

Please refer to Appendix C for an overview of the standards required for education and training in Australian Correctional Centres.

## **4. Analysis of BSI Outcomes**

Improving literacy and numeracy rates through vocational education and training has been shown to reduce rates of recidivism.<sup>28</sup> It is therefore essential that this be a primary focus in NSW Correctional Centres. According to an ABC News article published 11<sup>th</sup> May 2016, Corrective Services Minister David Elliott said teaching would continue to be a focus, and the reforms would more than double the number of inmates completing literacy and numeracy courses.<sup>29</sup> Dr Martin has indicated that the new model under BSI Learning has been highly successful since its implementation compared to inmate education statistics from the financial year of 2015/16. Dr Martin has stated that “the number of inmates completing core skills assessments has tripled, the number of inmates completing literacy and numeracy

<sup>25</sup> Sharkey, above n 16.

<sup>26</sup> Refer to Appendix B.

<sup>27</sup> Productivity Commission, Parliament of Australia, Report on Government Services (2018) Part C [8A.5].

<sup>28</sup> Sandra Duncan, “‘Reading Together’ to Lower Recidivism Through Strengthening Family Connections in Embedded Literacy Programs’ (2011).

<sup>29</sup> Ibid.

programs has increased by 43 per cent and the number of inmates participating in vocational training has increased by 77 per cent.”<sup>30</sup> These statistics however, must be viewed in light of the changes made to the methods of assessment, structure of the curriculum, and the increased pressure on Registered Training Organisations (RTOs) to pass students.

#### **4.1 Methods of Assessment:**

BSI Learning has replaced the previous personalized assessment procedure for Language, Literacy and Numeracy (LLN) assessment tool with a computerized process. This process is a multiple choice style computer-based assessment, which purports to examine reading and numeracy. According to the Teachers Federation, the assessment tool does not assess writing, which is a very important domain and is usually the skill in which students are weakest. The method of assessment – whereby students choose the best answer from a list of given possibilities - allows for a large element of guesswork. Further, the lowest grade attainable by prisoners is a ‘Level 1’, which means there is no indication of improvement for students who were previously illiterate. This has allowed CSNSW to make claims that ‘the situation is not as bad as we had thought’ and these manufactured results downplay the need for LLN provisions.<sup>31</sup> Core components of education for incarcerated persons have been neglected because computerized assessments inaccurately represent educational competence in inmates, failing to identify their educational needs and ultimately impeding the development of their skills.<sup>32</sup> When analyzing the context of this issue, it is clear that the data used is distorted because despite the fact that inmates’ LLN levels appear to have improved, their educational competence remains questionable.

Previous overall assessment results found that approximately 67% of inmates were either at or below Certificate 2 level; that is below a Year 10 level.<sup>33</sup> It is the opinion of this report that there appears to be no recent statistical evidence of recent inmates educational levels since the privatisation of prisoner education and the introduction of BSI Learning.

<sup>30</sup> Martin, above n 20.

<sup>31</sup> Ibid.

<sup>32</sup> University of Leicester, above n 17.

<sup>33</sup> Devon Indig, Libby Topp, Ross Bronwen, Hassan Mamoon, Belinda Border, Shalin Kumar and Martin McNamara, ‘2009 NSW Inmate Health Survey: Key Findings Report’ (Research Report, Justice Health, 2010).

## **4.2 Structure of Curriculum:**

BSI Learning changed the curriculum from the Access Employment Education and Training (AEET) and Certificates in General Education for Adults (CGEA) previously used by corrective services, to the Foundational Skills Curriculum. Experts see this as an inferior qualification. Dr Martin, from CSNSW, stated that ‘completion’ of a literacy and numeracy program was considered an “achievement of a qualification as defined by the Australian Qualifications Framework (AQF)”.<sup>34</sup>

Issues with BSI Learning’s structure revolve around the rigidity and overall quantity of the curriculum. BSI Learning only allocates 60-140 hours for certificate program completion, although it was previously intended to take 300 hours. The limited period of time allocated presents a hindrance to the progressive development of skills needed for prisoners to successfully reintegrate into society upon release.<sup>35</sup> Dr Martin responded by indicating that the current inmate education strategy expects inmates to remain enrolled within a qualification program for up to four 10-week delivery blocks, totaling up to 320 hours of instruction at each qualification level.<sup>36</sup>

Further, classes run in 10-week blocks are problematic as they inhibit the learning experience of inmates due to its prescriptive nature. BSI Learning delivers education in a linear and rigid form, with little room for teacher creativity. This detracts from the quality of education because creativity and flexibility are integral to teaching students of different abilities, ages and cultural backgrounds. Additionally, BSI learning requires the participation of at least 6-10 students in each course, in contrast to the more dynamic model prior to privatisation which was more accommodating for students at all levels. Dr. Martin claims that BSI’s strategy has adopted a more systematic approach by tailoring the duration of the course to the commencing skill level of inmates, such that those with existing competencies may attend fewer delivery blocks<sup>37</sup>. Still, this proposed solution is vulnerable to misrepresentation, argued in the above section regarding the methods of assessment.

### **4.2.1. Concerns over BSI Learning Curriculum**

A number of concerns have been raised surrounding BSI Learning’s current operation and delivery of education.

<sup>34</sup> Martin, above n 20.

<sup>35</sup> Sharkey, above n 16.

<sup>36</sup> Martin, above n 34.

<sup>37</sup> Martin, above n 20.

- The structure of BSI Learning’s current curriculum gives preference to students with the lowest level of knowledge. As a result, students who have completed the first level in a course are prevented from progressing until other students have reached the same stage.
- There are no mixed level classes and BSI trainers are encouraged to prioritise students with the lowest level of education. This means once the ten-week training block has finished students are unable to progress as the trainers are encouraged to create another class for the lowest level of educated inmates.
- Due to the rigidity of class structures, there are limited options for advanced students. Consequently, advanced students may not have access to appropriate classes; thus, they miss out on an education entirely.
- The 2018 Report on Government Services provides information for the delivery of educational services.<sup>38</sup> Refer to Appendix C for the Key Performance Indicator (KPI) for prisoner employment participation.
- There remain many gaps in knowledge regarding further details on the delivery of educational services.
- In the examination of proposed expenditure for the portfolio area (Portfolio Committee No. 4 – Legal Affairs) on 5<sup>th</sup> September 2017, David Elliott states:
  - “So far there has already been an 82 per cent increase in inmates completing core skills assessments and a 105 per cent increase in inmates participating in education planning on the last financial year. I am thrilled at the figures so far. As I think I said in last year's estimates committee hearing, in my mind the focus on rehabilitation should always start and end with literacy skills.”<sup>39</sup>

<sup>38</sup> Productivity Commission, above n 27.

<sup>39</sup> Evidence to Portfolio Committee No. 4, Counter Terrorism, Corrections, Veterans Affairs, Parliament of New South Wales, Sydney, 4 September 2018, 29 (David Elliott).

- Dr Anne-Marie Martin has stated that in order to better facilitate the gap in educational differences, “[o]pportunities with the Literacy for Life Foundation are being considered for those that need assistance”.<sup>40</sup> However, it is unclear whether these programs are likely to go ahead.

Thus, estimates as to the success of the current privatized education model have been skewed by the above factors, which we must take into consideration. There remain a number of questions regarding BSI Learning’s delivery of educational outcomes that remain unanswered. The BSI Learning model appears to be inadequate for catering the full range of education needs of prisoners. The rigid class structures and educational material is inappropriate for the large educational and socio-emotional needs of prisoners. Thus, the privatised model of BSI Learning should be reconsidered to allow for greater flexibility in structure in order to better facilitate the needs of prisoners, maximising their overall educational experience and skills attainment.

### **4.3 Pressure on RTOs:**

Additionally, RTOs face a conflict of interest due to being funded based on the results they report, which influences their educational practices. In collaboration with CSNSW, RTOs are expected to increase the number of prisoners participating in education and training by 20%.<sup>41</sup> Dr Martin stated that “BSI Learning have just been issued with a 5 year Australian Skills Quality Authority Registered Training Organisation<sup>42</sup> (ASQA RTO) registration without the requirement to undergo audit,” indicating that BSI must comply with RTO Standards. Thus, although BSI Learning’s statistical achievements may seem largely positive, the ways in which the results are being produced have undermined the curriculum’s actual value and effectiveness.

## **5. Arts and Music**

Arts and Music classes are a crucial aspect of prison education. They do not just offer a therapeutic and educational experience, but also serve as a gateway to general education and training once rapport and

<sup>40</sup> Community Justice Coalition correspondence with Dr Anne Marie Martin.

<sup>41</sup> BSI Learning, Learning expands their footprint in inmate education in two states (June 2017) <<http://www.bsilearning.edu.au/blog/item/244-inmate-education-in-two-states>>.

<sup>42</sup> BSI Learning Participant Handbook (p. 9-10), an instructor needs to possess a Certificate IV in Training and Assessment to qualify as a trainer for this program. BSI Learning Student Handbook v4 August 2017, RTO ID 21371 <<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryOther/Transcript/11017/ASQs%20-%20Elliott.pdf>>. Duration of registration not specified here.

faith in education is established.<sup>43</sup> Furthermore they assist inmates in developing social and communication skills, therefore improving the process of reintegrating into society.<sup>44</sup> Moreover, these classes provide a source of future income for the inmates, and reduce mental illness and unhealthy behaviours, by giving a healthy way to deal with emotions. These art classes may also allow inmates to develop digital skills, which again may contribute to their potential future incomes.<sup>45</sup> Arts and Music classes can help with the learning and teaching of literacy, research has shown that a relationship exists between phonological awareness and literary skills. <sup>46</sup> Furthermore, they are complementary to the policy for Aboriginal and Torres Strait Islander inmates, which is discussed further in the next section, giving them access to opportunities that recognise their land, cultural beliefs, etc.

Despite their merits, Art and Musical based subjects are not yet provided generally under the BSI program in NSW correctional centres, with the exception of TAFE NSW Arts, which is only available at the Macquarie Correctional Centre. This stagnant approach to the arts may be partially attributed to a difference in operating philosophy and funding arrangements from other correctional centres within the state.<sup>47</sup>

Currently, the lack of importance placed on Art and Music classes is reflected in the non-existent or poor art facilities in CSNSW. Up to now, art teachers have had no participation in the design of the facilities needed for this purpose, which led to inadequate equipment and installations. Art classrooms are often cells or corridors.<sup>48</sup> Art teachers suffer from abusive behaviours and they are not granted the regular supervision that other non-custodial areas of work are provided, such as psychologists.<sup>49</sup>

## **6. Aboriginal Cultural Classes**

BSI Learning at present offers no form of Aboriginal education, despite the disproportionate representation of Aboriginal and Torres Strait Islander people (ATSI) across NSW gaols. ATSI incarceration and over-representation in the criminal justice system is a complex challenge to overcome.

<sup>43</sup> Lee Michael Johnson, 'A Place for Art in Prison: Art as A Tool for Rehabilitation and Management' Southwest Journal of Criminal Justice.

<sup>44</sup> Statement from Teachers Federation NSW.

<sup>45</sup> Ibid.

<sup>46</sup> Sheila Douglas Peter Willatts 'The relationship between musical ability and literacy skills' (1994) 17(2) Journal of Research in Reading 99

<sup>47</sup> Martin, above n 20.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

It requires proactive institutional reform whereby the educational needs of ATSI prisoners are met, namely recognition of connection to culture. Whilst there have been numerous recommendations in support of such a provision, the West Kimberly Regional Prison remains among the only corrective services in NSW to recognize and continue the spiritual and cultural education of incarcerated indigenous Australians.

A 2017 study by BMC Public Health on Australian Indigenous people in custody<sup>50</sup>, ‘cultural engagement’ was significantly associated with non-recidivism. The findings of the study emphasise the importance of culture for Indigenous people in custody and a greater need for correctional institutions to accommodate Indigenous cultural considerations. Indeed, the study showed that having pride in one’s Indigeneity, possessing knowledge about one’s tribal background and ascribing a level of personal significance to cultural knowledge engendered greater engagement. It is noted that Aboriginal and Torres Strait Islanders are heterogeneous peoples. Therefore programs must indeed reflect the notion that individuals may vary widely in how they identify culturally.

The “Torch” Indigenous Arts in Prison and Community Program in Victoria<sup>51</sup> is an exemplar program for relating to Aboriginal Culture Classes. The Program has two objectives 1) Through art, cultural, and arts vocational support, provide a forum for cultural exploration, expression and strengthening for members of the Indigenous community who are incarcerated, and 2) Through supporting creative skills and connection to culture, work with participants to find a new way forward on their return to community and reduce rates of recidivism.<sup>52</sup>

## **7. ESL Classes**

On the 15 October 2018, English language courses through TAFE NSW commenced to provide inmates who required the development of Basic English language skills to participate in present correctional and future employment environments.<sup>53</sup>

According to Corrective Services NSW, “Inmates in NSW correctional centres do not have access to the internet which greatly restricts the delivery of distance education courses and the inmate’s ability to

<sup>50</sup> Shepherd Stephane et al, 'The Impact of Indigenous Cultural Identity and Cultural Engagement on Violent Offending' (2017) 18 BMC Public Health 17.

<sup>51</sup> The Torch, Skink, Creating new pathways through art and cultural learning <<https://thetorch.org.au/>>

<sup>52</sup> Ibid.

<sup>53</sup> Martin, above n 20.



undertake research.”<sup>54</sup> As will be revealed below, a number of jurisdictions allow distance education in correctional centres and has outlined the benefit of such.

## **8. Recommendations – Expanding Educational Opportunities**

**Stephen Seymour—University of Southern Queensland—Making the Connection Project**

Prisons in most Australian jurisdictions are not permitted to access online learning technologies due to procedural restrictions prohibiting prisoner access to the Internet. Formal education and training delivery to prisoners is currently provided in non-digital forms, usually in the form of blocks of printed text. Although this method enables access to course materials, it does not develop digital literacy in incarcerated students, and these skills are becoming more essential to pursue formal learning outside of correctional centres. Currently, there are few programs offered to incarcerated students that adequately prepare them for entry into higher education and even fewer that provide incarcerated students with the opportunity to use modern Information and Communication Technologies (ICTs).

The ‘Making the Connection’ project<sup>55</sup> seeks to bring “Offline” digital technologies (that do not require internet access) into correctional centres as a means of enabling prisoners to engage in online education. The second stage of the project involves allocating notebook computers that are pre-loaded with course materials to participating prisoners. There are two main technologies that are incorporated into this project: 1) the USQ OffLine Enterprise Platform (a server-based solution) and 2) USQ OffLine Personal Devices (notebook computers).

One of the key benefits of the ‘Making the Connection’ project is that it does not only facilitate the numeracy and literacy levels of prisoners, but it also looks to identify and accommodate for the learning difficulties and cognitive difficulties of individuals. It establishes a self-paced course material that would allow individuals to advance through the course material at a pace that is suitable for their needs. This is a suitable and positive alternative to the rigidity of the BSI Learning model.

‘Making the Connection’ is designed to be engaging through the use of multi-media platforms and gamification. It is also created, where possible, to be in the first language of the student.

<sup>54</sup> Corrective Services NSW, Education Programs and Services (10 June 2016) <<https://www.correctiveservices.justice.nsw.gov.au/Pages/CorrectiveServices/programs/adult-education/adult-education.aspx#DistanceEducation>>.

<sup>55</sup> University of Southern Queensland, ‘Making the Connection: Report for the Royal Commission into the Protection and Detention of Children in the Northern Territory’ (2017).

Currently, the project has been deployed at 30 correctional centres in Queensland, Tasmania, Northern Territory and Western Australia. Over the past four years, 1300 incarcerated students have been able to enroll in “Offline” enabled courses and programs at the University of Southern Queensland. It is expected that expanding the implementation of these technologies to other prisons will increase the flexibility of BSI Learning’s current mode of delivery and better facilitate the education of prisoners who do not have reliable access to the Internet.

**Dr Jedidiah Evans—Australian Catholic University—‘Inside Out and Learning Together’**

Co-learning refers to a broad range of teaching practices that mainstream prisoner education. This centres around the education of inmates alongside their non-incarcerated colleagues. It is a method of education delivery that has been widely discussed by academics across the globe, and which bears much promise within the NSW context.

There are a number of various innovative programs that exist worldwide, with a great need for NSW to adopt such models that incorporate co-learning through collaboration between universities and prisons. One of the recent developments in Australia has been the pilot program ‘Inside Out’, instigated by Marietta Martinovic in Victoria.

The “Inside-Out” program at RMIT in Victoria saw undergraduate criminology students taking courses alongside prison students. This model of co-learning and collaboration between inmates and criminology students, both studying the same material, opened up a range of educational opportunities, from foundational numeracy and literacy skills to vocational courses to university level education. Dr Evans highlighted the importance of offering tertiary education for prisoners, stating, “[b]y having opportunities for prisoners to aspire to, you give them reasons for accessing the basic skills that operate as a bridge into more meaningful learning opportunities”.<sup>56</sup> Dr Evans also noted that instruction from educators external to the correctional system is important to “meaningful[ly] connect inmates with communities beyond the prison walls”,<sup>57</sup> emphasising that prisoner education is not only of value to the prisoners themselves but also the community to which they are returning.

<sup>56</sup> Dr Jedidiah Evans, (Speech delivered at the Expanding NSW Prisoner Education Opportunities Forum, NSW Parliament House, 26/09/18).

<sup>57</sup> Ibid.

Both projects and programs are highly effective models that could and should be implemented or reflected in the NSW prisoner education system in order to maximise the potential of prisoner education in the rehabilitation and learning of inmates.

## **Conclusion**

The privatisation of prisoner education has evidently led to a lower standard of education inside NSW prisons. One of the key detrimental changes from the privatisation of prisoner education is the shift from university-qualified teachers to Cert IV trainers. Trainers are not accountable to the same standard as teachers, undermining the quality of education being provided to inmates. Moreover, the rigidity of the BSI Learning model does not adequately incorporate literacy and numeracy development as well as Art and Music classes. These are crucial components of the education experience for prisoners and their education development. The quality of education in NSW prisons needs to be continuously evaluated with effective methods in order to appropriately and adequately assess the outcomes of prisoner education. The educational opportunities discussed by Stephen Seymour and Dr Jedidiah Evans may provide suggestions for how to improve the current situation to ensure the best outcomes for students in prison. The discussion detailed in this document provide further suggestion for how to improve our analysis on how regressive the privatisation of prisoner education will truly be. Thus, there must be serious reconsideration over the current state of prisoner education in NSW, ensuring that the education system is able to actively address and improve the wellbeing and development of prisoners to its maximum potential.

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## Appendix

### Appendix A: Estimates Committee September 5, 2017<sup>58</sup> p.14

Hon. LYNDA VOLTZ: On what date was the new private training provider, BSI Learning appointed as the successful tenderer for Corrective Services?

Mr DAVID ELLIOTT: It was only this year. I can certainly confirm to the Committee that they have been given it this calendar year. I will get the specific date for you. I think it was in about May. I will take that on notice and I will give you the specific date when the contract was signed.

The Hon. LYNDA VOLTZ: Can you explain why there was a delay in their appointment?

Mr SEVERIN: It was a direct result of the tender process, which was quite complex and involved a whole range of organisations that tendered for the work. There was a range of complexities which obviously were subject to very clear and strict probity arrangements which then unfortunately resulted in a slight delay. Nevertheless, having signed the contract, it is now starting to be implemented across the system and also augmented by an increase in the engagement of TAFE NSW, particularly for the provision of vocational training.

The Hon. LYNDA VOLTZ: Would you not have known it was going to be complex when you decided to go down this path?

Mr SEVERIN: We always knew that this was going to be a complex transaction. Obviously you can only really assess the complexity once you receive the tenders and the bids and look at the offerings from various proponents.

The Hon. LYNDA VOLTZ: What date did the new private training provider commence language, literacy and numeracy training in all New South Wales correctional centres?

Mr DAVID ELLIOTT: We anticipate that the full range of programs will be rolled out from this month.

The Hon. LYNDA VOLTZ: Does that mean they are currently not being run?

Mr DAVID ELLIOTT: They are being run. You have asked about the full—

The Hon. LYNDA VOLTZ: Yes.

Mr DAVID ELLIOTT: I just mentioned about the full range of programs. Mr Severin may want to answer that.

The Hon. LYNDA VOLTZ: I will go back to the question: What date did the new private training provider commence language, literacy and numeracy training in all New South Wales correctional centres?

Mr SEVERIN: It will be this month. Up until now we had a memorandum of understanding [MOU] with TAFE NSW, where we continued to provide the suite of programs that we provided prior to the change of the operating model. Interestingly and most significantly we have almost doubled the core skills

<sup>58</sup> Evidence to Portfolio Committee No. 4, Counter Terrorism, Corrections, Veterans Affairs, Parliament of New South Wales, Sydney, 5 September 2017, 14.

assessment in this process, meaning that for the first time this system is in a position to tailor the program to the identified needs of an inmate rather than having what can only be described as more of a watering can approach where we hoped that something would make a difference rather than targeting the intervention specifically to the need of the individual inmate.

The Hon. LYNDA VOLTZ: Why is there a delay in commencing the language, literacy and numeracy education?

Mr SEVERIN: It is not a delay at all. This was always the period of time required for a new service provider to engage staff, to go through all the relevant security requirements they have to satisfy—we cannot just let people come into the prisons without security vetting—and to undergo induction training that is necessary for a safe way of delivering programs. This is very much in keeping with the pre-programmed time line. The delay that I referred to was part of the tendering process, not part of the implementation process.

Mr DAVID ELLIOTT: Through you, Mr Chair, can I just clarify something in that last question? This was a genuine attempt from the Government to increase training and education opportunities. So far there has already been an 82 per cent increase in inmates completing core skills assessments and a 105 per cent increase in inmates participating in education planning on the last financial year. I am thrilled at the figures so far. As I think I said in last year's estimates committee hearing, in my mind the focus on rehabilitation should always start and end with literacy skills.

The Hon. LYNDA VOLTZ: That is good. While you are on figures, what are the current literacy and numeracy rates amongst inmates following the introduction of the education and vocational training services?

Mr DAVID ELLIOTT: It is only just being rolled out this year, so I will have to take that on notice. I suspect the best figure will not come for you until the end of the calendar year.

The Hon. LYNDA VOLTZ: What do the 82 per cent and the 105 per cent relate to?

Mr DAVID ELLIOTT: That is planning and assessment, as I said.

The Hon. LYNDA VOLTZ: Planning and assessment?

Mr DAVID ELLIOTT: Ye



## Appendix B: Budget Estimates 2017-2018 Supplementary Questions Legislative Council Friday 29 September 2017

Accessed: <https://www.parliament.nsw.gov.au/lcdocs/other/11017/ASQs%20-%20Elliott.pdf>

Questions from the Hon Shaoquett Moselmane MLC (on behalf of the NSW Labor Opposition)<sup>59</sup>

### Prison Education

1. What was the total number of full time equivalent teaching staff in NSW correctional facilities in:

(a) 2013-14?

(b) 2014-15?

(c) 2015-16?

(d) 2016 to date

I am advised the FTE number of teaching roles in Corrective Services NSW was:

(a) as at 30 June 2014 - 188.2

(b) as at 30 June 2015 - 194.9

(c) as at 30 June 2016 - 200.1

(d) as at 30 June 2017 – 20\*

\* Under the new inmate education model, courses will be delivered 50 weeks a year and the number of inmates completing literacy and numeracy programs will more than double.

2. Between the mass sacking of full-time teachers in December 2016 and the award of the contract to BSI Learning, who was providing education and training in NSW prisons?

I am advised: Corrective Services NSW teachers have continued to deliver education programs in the Intensive Learning Centres at Wellington, Lithgow, Mid North Coast and South Coast Correctional Centres. Corrective Services NSW has a Memorandum of Understanding with TAFE NSW. Education and training services were provided by TAFE between January 2016 and June 2017.

### Education Training Qualifications

<sup>59</sup> Budget Estimates 2017-2018, Answers to Supplementary Questions  
<https://www.parliament.nsw.gov.au/lcdocs/other/11017/ASQs%20-%20Elliott.pdf>

39. Corrective Services Teachers were required to hold as a minimum a degree in Education and TAE to delivery Language, Literacy & Numeracy to students within NSW Gaols. What are the minimum qualifications required by BSI trainers to deliver Language Literacy & Numeracy?

- (a) Do you believe that this qualification is sufficient to deliver Language, Literacy & Numeracy skills to inmates in NSW Correctional Centres?

I am advised:

BSI is required to meet standards set by Australian Skills Quality Authority (ASQA); the national regulator for Australia's vocational education and training sector. ASQA regulates courses and training providers to ensure nationally approved quality standards are met. BSI Learning Trainers are required to hold qualifications as described in the Standards for Registered Training Organisations (RTOs) 2015.

Education Delivery NSW Corrective Services

106. Can you provide the number of active Traineeships in NSW corrective services facilities on:

- (a) July 1 2015?  
(b) July 1 2016?  
(c) July 1 2017?

I am advised:

- (a) July 1 2015 - 165  
(b) July 1 2016 - 130  
(c) July 1 2017 - 122

In addition, 57 traineeships have commenced in the period 1/8/17 to 14/9/2017 and a further 85 trainees have been signed up.

107. Can you provide the total number of LLN hours delivered in NSW corrective services facilities on:

- (a) July 1 2015?  
(b) July 1 2016?  
(c) July 1 2017?

I am advised:

(a) July 1 2015 – 2,197

(b) July 1 2016 – 1,907

(c) July 1 2017 – Not available

108. Can you provide the total number of student enrolments in NSW corrective services facilities on:

(a) July 1 2015?

(b) July 1 2016?

(c) July 1 2017?

I am advised:

(a) July 1 2015 – 2,903

(b) July 1 2016 – 2,696

(c) July 1 2017 – Not available

## Appendix C: AVETMISS Standard of Education

### Level of Qualifications

The AVETMISS standard is the standard of educational training that must be provided by national VET activity.<sup>60</sup>

In 1996, the Senate Report of the Inquiry into Education and Training in Correctional Facilities (Senate Employment, Education and Training References Committee 1996) recommended the development of a national VET strategy. The National Strategy for Vocational Education and Training for Adult Prisoners and Offenders in Australia was launched in 2001. All RTOs delivering prison education and training are required to be Australian Vocational Education and Training Management Information Statistical Standard (AVETMISS) compliant i.e. to meet nationally consistent data standards that ensure the accurate capture and reporting and analysis of vocational education and training (VET) activity throughout Australia.<sup>61</sup>

The KPI for prisoner employment participation requires 100% compliance, as does the KPI for programs delivered. Similarly, the KPI for education is based on 100% compliance with literacy and numeracy tests, delivery of 9,600 hours of literacy and numeracy education, and 4,000 hours of Vocational Education and Training (VET) listed with a 5% penalty to the PLF (Performance Level Fees) for non-compliance. The KPI for hours out of cell, based on a requirement of 11 hours per prisoner per day, requires 95% compliance (ibid: KPI 10). As with the other KPIs, these targets incur a 5% penalty to the PLF if they are breach

<sup>60</sup> University of New South Wales, 'Adult prisoner participation in education, training and employment in Australia' (2016) 30.

<sup>61</sup> Ibid 17-20.

## Appendix D: Estimates Committee September 4, 2018<sup>62</sup> p.29

The ACTING CHAIR: Thank you, Minister; I appreciate the offer. Have the projections been met in the education reforms that you have made?

Mr DAVID ELLIOTT: Yes.

The ACTING CHAIR: What number of prisoners were projected to have been given access to literacy and numeracy projects in the first 12 months of those reforms and have they been met?

Mr DAVID ELLIOTT: Thank you very much; that is fantastic. I am really delighted with the success that we have had with our reforms in education. As you know, my major concern was to increase the number of people who had not only accessed but completed education programs.

The ACTING CHAIR: Minister, my question was about the projections. What were the projections and have they been met?

Mr DAVID ELLIOTT: Let me start by saying to you that in the last year of the Labor Government the completion rate for certificates was 1 per cent. This year it is 20 per cent. The projections are in good order.

The ACTING CHAIR: Minister, are you saying, on record here, that the projections that you and the department laid down for the provision of education have been met? Is that your evidence?

Mr DAVID ELLIOTT: I will have to check on what the projections were but I have the statistics of what we have been able to achieve. Ninety-eight per cent of inmates with a sentence of more than six months have now completed a core skills assessment and—

The ACTING CHAIR: Minister, I will put this to you.

Mr DAVID ELLIOTT: I need to finish this. You have asked the question and this may answer the questions.

The ACTING CHAIR: My question was about the projections.

The Hon. TREVOR KHAN: He is answering the questions. He is generally relevant.

Mr DAVID ELLIOTT: This is a great success story for the commissioner and the team at Corrective Services NSW. The number of inmates completing literacy and numeracy programs has increased by 53 per cent since I have been the Minister. The number of inmates participating in vocational training increased by 77 per cent since I have been the Minister. Core skills assessments in 2015, the year that I became the Minister were 3,040; last financial year they were 10,234. Completed literacy programs the year I became the Minister were 322; last financial year there were 459. Participation in a vocational training program the year I became the Minister was 2,900; this year it is 5,289. Literacy completions the

<sup>62</sup> Evidence to Portfolio Committee No. 4, Counter Terrorism, Corrections, Veterans Affairs, Parliament of New South Wales, Sydney, 4 September 2018, 29.

year that we came into government was only 56. This financial year it was 459. The completion rates have also gone from 1 per cent to 20 per cent. So I am going to take that as a big tick for the Government's reform on prison education. I am hoping that the number of inmates accessing programs—particularly in relation to the reforms that we have seen in the estimates committee, where we have seen that people who are on remand for less than six months are now getting access to these programs—will eventually put downward pressure on the prison inmate population.