



The impact of an independent inspectorate on penal governance, performance and accountability: Pressure points and conflict “in the pursuit of an ideal of perfection”^{☆,☆☆}

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ABSTRACT

This paper examines the impact of an independent Inspectorate on the enactment, of and accountability for, penal reform in the Australian State of Western Australia. Intended to improve system wide custodial outcomes through the introduction of a privately managed operator acting as standard bearer and innovator, the reform agenda was predicated on an overhaul of governance, performance, systems and reporting practices in the sponsoring department and the state's public prison network. Insights from three credos of imprisonment, theorizations of 'hierarchical' and 'intelligent' governance and accountability, the interplay of values in changing practice, and the ways in which inspectors establish particular inspection regimes, frame analysis of reform implementation and the inspection regime in action over a ten year period. Using archival material, this research examines how the Inspectorate, in making things auditable, altered perceptions and organizational realities of a network of actors. It is contended that the governance and accountability tensions inherent in managerialism, exemplified in its reliance on 'neutral' accounting technologies to incentivise, manage and monitor custodial outcomes, privilege instrumental hierarchical governance and accountability regimes that ignore the rehabilitative aspects of imprisonment. Further, conflicting publicly espoused and privately held values play vital roles in moulding performance in a penal setting, and are fundamental to changing outcomes in networks. The Inspectorate's public values and intelligent accountability regime resonate with the Department's policy objectives and public values, but are shown to have been initially inconsistent with network actors' hidden private values. The research concludes that the appointment of an independent Inspectorate has facilitated the accountability of those responsible for prison quality and positively influenced the treatment of prisoners. A secondary concern is investigating conflicting propositions about the relative governance, performance and accountability of privately and publicly operated prisons.

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1. Introduction

Reforming the delivery of correctional services requires governments to articulate a new philosophy of imprisonment and to outline associated performance, governance and accountability expectations. Key challenges are to align practices in

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^{☆☆} Roberts (2009, p. 961).

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prisons with reform objectives and to establish an effective accountability architecture. Such reforms, which typically require radical changes to the established culture and values in prisons (Crewe and Liebling, 2012) and in associated governance and accountability mechanisms (VDJ, 1996; John Mitchell & Associates, 2003), can be resisted across a penal network: in departments responsible for leading and overseeing reform, and at the local prison level where superintendents and officers also need to re-evaluate and modify existing practices. Governments in the United Kingdom and Australia have established new privately operated prisons both for reasons of efficiency in line with New Public Management (NPM) thinking, and to model best practice to be introduced into public prisons, with the intention of speeding the adoption and effectiveness of reform enactment. There is, however, resistance to privately operated prisons in the literature and the community on the grounds of poor performance and a lack of accountability (Andrew, 2007, 2009; Cooper and Williams, 2005).

Penal reform in Western democracies is informed by three credos of imprisonment (Liebling, 2004), following Rutherford (1993).¹ These are the 'punishment credo' (hereafter Punishment), representing outdated views of imprisonment as punishment in which the security of prisoners is the paramount objective; the 'care credo' (Care), which focuses on rehabilitation through qualitative improvements in prisoner treatment; and the 'managerialism credo' (Managerialism), in which accounting technologies are deployed to incentivise and make network actors accountable for the efficient and effective delivery of secure prisons that foster improvements in prisoner treatment and rehabilitation (VDJ, 1996; John Mitchell & Associates, 2003). These credos articulate different perspectives on "what matters in prisons" (Liebling, 2004, p. xvii) and how to achieve it. Security values, which are associated with Punishment (Crewe and Liebling, 2012) align with self-perpetuating instrumental hierarchical governance and accountability (Roberts, 1991); whereas Care's harmony based values (Crewe and Liebling, 2012), are associated with fostering harmonious relationships within prisons and devolved trust related governance and accountability (V. Braithwaite, 1998; Roberts, 2009). Unlike Punishment and Care, Managerialism ostensibly has no inherent values base, enabling its use to promote and support a variety of agendas. The tensions inherent in the reliance on accounting technologies to improve social outcomes in Managerialism beg the question of the nature of an appropriate governance and accountability regime in the context of modern prisons, and raise the possibility that notions of governance and supporting systems of accountability may be contested.

In 2001 the Government of Western Australia (WA) embarked on a prison reform programme inspired by Managerialism. It had four key elements. First, the introduction of Care inspired 'cornerstone' objectives to improve the custody, care and well-being, rehabilitation² and reparation³ of the state's prisoners. Second, the introduction of a private prison operator as a standard bearer and innovator, its performance incentivized by contractually based financial inducements and sanctions to model change. Third, an overhaul of governance, systems and reporting practices in the then Department of Justice⁴ and the state's public prison network to support the achievement of reform objectives throughout the prison sector (John Mitchell & Associates, 2003). Fourth, unique in the Australian context,⁵ the creation of an independent prisons Inspectorate, the Office of the Inspector of Custodial Services (hereafter, referred to as the Inspectorate or the OICS), to ensure the external scrutiny and accountability of reform implementation. The OICS was established in 2000 as a statutory body reporting publicly to the parliament, and is the source of much of the archival evidence relied on in this research.⁶

The collection of papers in this issue of *Critical Perspectives on Accounting* contributes theoretically and empirically to the central themes of the accountability, NPM and public sector literatures. They also add to a debate raised in a 2012 Accounterability Special Issue in this journal which explored the idea that "accountability contains threads of both calculation and narration: counting and accounting, recounting and explaining oneself" (McKernan and McPhail, 2012: 177). McKernan and McPhail note the dominance of calculative over narrative accountability. Following on from this, two empirical papers (Saliterer and Korac, 2013; Vinnari and Nasi, 2013) and one field study (Roussy, 2013) unambiguously confirm their observation. However, it is challenged by findings in the other three papers (two field studies (Mutiganda, 2013; Habersam et al., 2013, and this archival study) that comprise this Special Issue on Governance and Accountability.

Roussy's (2013) study demonstrates how the two strands of calculative accountability; the centrality of calculation in making things visible and its role in the quantified evaluation of human performance (McKernan and McPhail, 2012), undermined the professional obligations of internal auditors in the Quebec public sector. Instead of identifying and reporting waste and mismanagement, as required by their professional obligations, Roussy found that internal auditors identified strongly with their employer organizations, to the point of protecting senior managers and keeping secrets from external

¹ Liebling (2004) and Crewe and Liebling (2012) adapt Rutherford's (1993) three credos (Punishment, Efficiency and Care) in their work. This paper relies on their interpretations, also in conflating the Efficiency and Effectiveness credos (identified initially by Liebling in her 2004 book and in Crewe and Liebling, 2012) as one credo, Managerialism.

² Programmes and activities intended to improve rehabilitation outcomes (i.e. reduce reoffending) include opportunities for learning, skilling, employment, treatment of drug, alcohol and emotional problems; facilitating reintegration into the community through strengthening family ties and engaging prisoners in recidivism reduction programmes (John Mitchell and Associates, 2003, p. 22).

³ Reparation represents continuous contributions to the community by prisoners through work and other activities to make good the harm done by their offending (John Mitchell and Associates, 2003, p. 20).

⁴ The Department of Justice became the Department of Corrective Services in 2006. Throughout, both will be referred to as the Department.

⁵ At the time of writing the Government of NSW has signalled its intention to establish an independent inspectorate modelled on the WA model.

⁶ The inaugural and current inspectors are Professors of Criminology at the University of Western Australia.

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