**27th November 2023**

**The United Nations Special Rapporteur for Torture**

**Current Issues and Goof Practice in Prisons**

**Submission by Jason Ross Maloney**

**Prisoner at Lithgow Correctional Centre**

**New South Wales Australia**

**Preventing Suicides and Deaths in Custody**

**Introduction**

My name is Jason Ross Maloney (MIN#445856) and I am an inmate housed at Lithgow Correctional Centre (LCC) .

I am currently serving 11 years on the bottom for large commercial drugs supply and supplying prohibited firearms. All up I have served 12 years in jail.

I have written this vast submission into the many reasons I believe contribute to suicides and murders within the NSW prison system. After 12 years, I have had enough, and seen enough death, violence and carnage to last me a lifetime. I want to help stop deaths.

**The Suicide of Mr Dennis Pietrobon**

The suicide of my friend Mr. Dennis Pietrobon has been one of the catalysts that have changed my life and set me on an alternative path. I do not want Dennis’ death to be in vain. It is now patently obvious to me, with the power of hindsight that Dennis’ death was 100% preventable if the NSW prison system did not still practice archaic, cruel, imperial and punitive colonial ways of corrections practice. Many inmates will continue to die, like Dennis unless Department of Corrective Services (DCS) NSW has a complete overhaul.

I understand that not all suicides and murders can be stopped in jail. But I honestly believe if we actually start to value human rights, follow our agreed United Nations treaties such as the mandated UN Mandela rules and United Nations Optional Protocol on the Convention Against Torture (OPCAT) treaty as well as ensure that all NSW remand prisoners actually get treated decently and fairly with compassion throughout the trial process then hundreds of deaths from suicide and murder in custody can be prevented in NSW and Australia.

Dennis’ death crushed me. He is dead because of a catalogue of old, toxic entrenched practices still used in DCS NSW that serve no human decency in 2023. DCS NSW constantly abuses Australian citizens human rights. They have no real due diligence towards their legal obligations of duty of care and they have a corrosive, archaic, toxic culture of nepotism and sadistic punitive practice that they arbitrarily impose upon inmates at their various whims. Death occurs often inside NSW prisons as it is also the least transparent and accountable government bureaucracy in existence. A Royal Commission into DCS NSW is needed.

Many will scoff and be repulsed at what would be deemed the “flagrant audacity” of an “inmate” to make such a statement. It is the same bigoted culture, that treats inmates with contempt and as sub-humans that react in such a way. The fact that DCS NSW has such a conservative tone and reactive posture towards any opinion an inmate might have to try and improve the NSW prison system, is an exact indictment upon the ignorant toxic culture that must change to bring DCS NSW in line with our human rights obligations stated in our signed UN OPCAT treaty, and stop deaths in custody.

**The Failure of New South Wales to Implement OPCAT**

In October of 2022, New South Wales refused entry to United Nations Subcommittee for the Prevention of Torture (SPT Committee) delegation. This resulted in the SPT Committee postponing its formal visit to Australia on the undertaking that access issues to New South Wales and Queensland would be rectified. Unfortunately this did not occur and the SPT Committee formally cancelled the visit in February 2023.

DCS NSW claim they have no funding to implement OPCAT. If that is the case DCS NSW and Corrective Service Industries should be ordered to open their financial books to an independent actuary like “Price Waterhouse Cooper” to see where all their billions of NSW tax payer dollars are going. Inmates are dying all the time in NSW prisons, as well as all over Australia. It must stop. The pithy platitudes offered by DCS NSW must stop also. DCS NSW must grow up and take responsibility for all these deaths in custody that can be prevented if only their toxic culture of not really caring would change. They get enough tax payer money already, it’s the profligate financial waste, and in-efficiency that is the problem. More money and an intractable prison union that does not care at all about inmate welfare will not stop deaths in custody. A complete overhaul will.

**Prisoners Fear Correctional Services Staff**

As well as constant deaths in custody, it’s also the complicit actions of many staff that lead to mental anguish, pain, suffering and self-harm. For example, I know that Dennis was petrified to go through the trial process from jail, especially Parklea jail as a remand prisoner. He had heard all of the gruelling horror stories of going to trial from Parklea jail and the object pain, misery and torture inflicted upon inmates that have to go through the arduous trial process. It was the fear of the remand trial process that contributed to his suicide. Later on in this submission I will expand on the very specifics that Dennis was afraid of.

**Chronic Lack of Healthcare in Prisons**

Another major contributing factor to the suicide of Dennis was the chronic lack of health care offered to Dennis for his genetic ailment. I remember he told me that he was told by Dr. Mark Tattersals that there was no way he would receive any of the pain medications or steroidal growth hormones that he used outside to treat his genetic disease. He told me that when he was told this, that he was only seen for a minute and his file was not even open. From memory he said he did not even think proper medical notes or procedures were completed by Dr. Mark Tattersals. I do believe that is the name mentioned to me. I’ll expand on medical mal-practice later.

After the initial shock of the suicide of Dennis I was interviewed by the NSW Police, DCS NSW Investigators and also St Vincent’s health Parklea. Due to myself being in shock, losing sleep and being stressed there was a lot that I did not remember straight away. I hope now I can be clear and illuminate everything so another death in custody like Dennis does not happen again. Everything must be exposed.

I also want to give Dennis’ family, especially his sister and children who he had told me about numerous times, closure. He told me he loved his family dearly and was very close to his sister. I want his family to know he loved them. I also want his family to know that I believe Dennis killed himself not only to avoid his own future physical and mental suffering, but also to avoid them suffering. I believe Dennis did not want his family to watch him slowly degrade over time in jail. Dennis knew that this is what was going to happen to him because there was no way he would receive the equal health care in prison as he would outside in the community, which is a flagrant breach of the UN Mandela Rules to which Australia is signatory too at the United Nations. DCS NSW breaches all UN treaties.

**Limited Access to legal Aid**

Another factor must also be considered as a potential contributing factor to the suicide of Dennis. I believe that he had his legal aid grant terminated.

I believe Dennis had about $300,000 in assets, therefore his legal aid grant was terminated. It is obvious to me now in hindsight that instead of wasting this money on lawyers, as Dennis saw it, he would prefer to die and leave the money and assets to his sister. I notarised the will of Dennis about a week before his death. I wish I could of known, but I just did not see it. Dennis made it explicitly clear that he wanted his sister to take charge of all his estate upon his death, to avoid his ex-wife appropriating the money. He wanted his sister to then invest the money for the children’s future.

**Conclusion**

I believe the money issue was a minor factor in his death. Undoubtedly the major reason for his suicide, was the fear of becoming a cripple with no proper health care in jail, leaving him disabled in prison, and the fear of the entire gruelling trial process as a remand prisoner in Parklea jail. Since the 1991 Royal Commission into indigenous deaths in custody over 500 indigenous people have died, and many more non-indigenous. Dennis’ death was preventable as well as thousands of others. I hope the following testimony on DCS NSW brings a stop to all deaths in custody. Firstly, Old Goulburn, Old Bathurst and Long Bay MSPC 1,2 & 3 are the worst human rights violaters.

**Breaches of Due Legal Process and Interception of Confidential Legal Correspondence in New South Wales Prisons**

In NSW persons, due to complicit ineptitude by DCS NSW, inmates are very much unable to receive and process or create legal documentation in private.

By law all legal correspondence reviewed by an inmate from a legal body or government department with legal privilege must be unopened when the inmate is given the legal documentation by DCS NSW staff. This is very often not the case and very regularly confidential legal documentation is opened, read, copied and tampered with before the inmate receives it.

DCS NSW have no real regard for confidential private legal documentation that belongs exclusively to the inmate by law. Sometimes DCS NSW staff collude with NSW police and the NSW DPP by intercepting confidential legal material that an inmate is trying to send to their solicitors or other legal body. The idea of justice, a fair trial and upholding the core tenets of our judicial processes that underpin our Western liberal democracy are disregarded arbitrarily by DCS NSW and no care or effort is given to maintaining our democratic judicial system.

As mentioned before, inmates face an unfair and blatantly illegal process to fight their legal cases at court. The following is a list of egregious and illegal arbitrary autocratic practices employed by DCS NSW that abrogate the judicial Westminster system in our state and country:

1. Inmates’ legal mail is often tampered with, opened or confiscated by DCS NSW staff in blatant disregard for the legal process. Paper mail is in-secoie.
2. On paper, in DCS NSW’s policy in the GOP it states that inmates are allowed computer access to fight their case and do legal research whilst in jail. This is false, especially at remand centres like Long Bay MSPC1 and Parklea. It’s near impossible to access computers with regularity and fairness. DSC NSW lie when they say they provide computer access with ease for inmates. Gaining computer or library access is very hard.
3. If an inmate needs to fight their case they are relegated to a notepad and pen just like this one to fight it. The DPP and police have computers, e-mail, printers, photocopiers, internet, iPad, “USB’s” and every modern electronic piece of office equipment to prepare their case against an inmate, yet the inmate has none of this and only has paper and pens that must be paid for with inmates’ money out of $15.51 a week. Certainly not a fair judicial process at all. It's abhorrent.
4. Whilst the DPP and police print and type and copy freely and with no restrictions, e-mailed each other instantly and calling each other whenever they want, an inmate must use snail mail to post legal documents to their solicitors that they once again pay for out of their meagre $15.51 a week paid into their jail account.
5. If an inmate needs photocopies of their legal documentation that they had written, DCS NSW charges them 20-50¢ per sheet whilst also reading their confidential legal work. Once again, this charge comes out of the $15.51 a week inmates receive. Compare this to free mail, free copying and the $200K salary a prosecutor has at their disposal in comparison, whilst they type away at their leisure on a laptop at home. This is not fair and equitable justice. In fact, this system is a complicit conspiracy designed to be drastically unfair to an inmate trying to fight their legal case.
6. Often an inmates’ cell is searched by DCS NSW staff and their private legal material is copied, confiscated or destroyed. DCS NSW do collude with police and the DPP illegally, to corrupt a fair case and destroy the idea of a fair trial.
7. If an inmate manages to get DCS NSW staff to e-mail their legal work to their solicitors it is not kept private. DCS NSW staff scan and copy private, confidential legal material when they e-mail solicitors for inmates. Quite often the copied and scanned material is read and illegally forwarded and sent to prosecuting police and the DPP.
8. Inmates have no access to private laptops or computers with e-mail to communicate in private with their legal teams and solicitors. Imagine if the opposite were true and the office and secretarial staff of police and DPP copied all the police and DPP case material and forwarded it to inmates before a trial. It would be an outrage. Or the police and DPP were only allowed to use pen and paper with no e-mail and pay 20-50¢ per piece of paper copied from their $200K a year salary. Would that be fair justice? Why do inmates get treated with such illegal contempt by the system that is by law meant to ensure a fair judicial process? It’s all a lie and a scam and must be exposed in public. Such tyrannical kangaroo court processes would be expected in Iran or North Korea. The NSW judicial process is turned into a farce and sham trial through such horrendous destruction of the 800-year-old Westminster judicial system that is the core fabric of our society.
9. In the modern age of 2023, you would think that DCS NSW would be up to date, but in reality, they lag far behind all the other states in Corrections. When it comes to inmates having access to anything besides pen and paper to fight cases, it is obvious that DCS NSW has contempt for the judicial process. The fact that the judiciary continues to allow such practices in NSW is an indictment upon the whole NSW judiciary also. Inmates must have equal access to all modern computer and office equipment including e-mail to fight legal cases fairly.
10. At some prisons like Goulburn max, inmates cannot even have a chair in their cell to sit on to read and write. How is this fair? How can an inmate do any legal work without the basics of a chair to sit on? Disgraceful.
11. Often during the trial process, an inmate is housed in a cell with one or two or three other inmates. How can an inmate function with random cell mates constantly changing and going about their business, disturbing an inmate constantly throughout a 12-week trial? All inmates at trial should be housed alone with no cell mate to ruin the trial process.
12. Inmates get $15.51 a week and are charged $2.80 for a 10-minute legal call. This is blatantly unfair. Do the police and DPP get charged $2.80 to call one another for 10 minutes? This is corrupt, unconscionable and a money-making extortion of vulnerable inmates in abject poverty.
13. I have mentioned before the starvation and sleep deprivation techniques employed by DCS NSW upon inmates during the trial process. I believe that the NSW judiciary, DPP and police all collude with DCS NSW to enact starvation and sleep deprivation techniques used on inmates to force them to capitulate and plead guilty to avoid this illegal torture. Having a system where inmates live on 4 hours sleep a night, are hand cuffed for many hours and also kept in underground bunker cells with no natural sunlight throughout the trial period, is corrupt and criminal. It completely undermines a fair and equitable judicial process. Inmates are also fed 2 half frozen cheese sandwiches every day for lunch while at trial. It is cruel and torture that is complicit in design.

The NSW judiciary is in contempt to allow such unfair torture of inmates throughout the trial process. Undoubtedly because of trial torture methods of starvation and sleep deprivation used against inmates by DCS NSW with the complicit authority of the NSW judiciary, tens of thousands of NSW citizens have plead guilty because of torture to avoid 12 weeks of pain and abject misery. I believe thousands of guilty pleas in NSW have been put forward by NSW citizens whilst under the pain and suffering of torture. Starvation and sleep deprivation is torture under our signed UN OPCAT treaty.

**Access to Mental Health Care - DCS NSW’s Mental Health “Green Carding” System**

DCS NSW practices a dangerous and negligent method of “looking after” mentally ill inmates called “green carding”. In reality the “green carding” system which is meant to look after the welfare of mentally ill inmates, in fact, puts them in much more danger and anguish and often leads to inmates that are mentally ill “green cards” to be physically and sexually assaulted. I will now explain some. Some have been killed.

Officially a “green card” inmate is a vulnerable, mentally ill inmate that cannot for any reason at all be left alone in a cell. Therefore, these mentally ill inmates are ordered by DCS NSW to cell up and live in a cell with a normal inmate with no mental health issues known as a “white card”. The vast majority of inmates are classed as “white card” inmates.

No normal “white card” inmate really wants to be housed with a vulnerable, mentally ill “green card” inmate. These mentally ill inmates are derogatorily referred to as “spinners” by the inmate population due to being mentally unsound and on a “green card”.

Instead of looking after mentally ill inmates who are vulnerable and perhaps at risk of self-harm, DCS NSW completely abrogates its mandated duty of care and outsources it’s work to regular “white card” inmates, who are literally forced by DCS NSW to look after the mentally ill “green card” inmates. Other inmates are expected to stop suicides. As I mentioned, most normal “white card” inmates seethe at the prospect of being forcibly housed with a mental health “green card” inmate. Often DCS NSW staff threaten the normal inmate with internal charges if they refuse to accept a mental health “green card” inmate as their cell mate. If you flat out refuse to be the green card’s full time mental health career, then you lose visiting privileges and phone calls and grocery buy-up as punishment. It’s abjectly cruel and unfair.

A regular inmate is completely unqualified to be forced to care for a mental health “green card” inmate full time. It is literally a full-time job, and forced labour that DCS NSW does not even pay the normal inmate to do. In reality DCS NSW by completely disregarding their mandated duty of care to the mentally ill inmate, actually put the “green card” vulnerable inmate at extreme high risk of physical and sexual assault. DCS NSW does not even check the charges that the so called “normal white card” inmate is in jail for. Often the most vulnerable mental health inmates and very often physically and mentally disabled inmates are forced to have a carer that is a prolific rapist or extremely violent inmate. It’s insane practice.

Physically and mentally disabled inmates are always green cards. So literally the most feeble and mentally disabled are housed with violent and sex offender inmates. It’s an absolute dereliction of DCS NSW’s duty of care. I made submissions to the Disability Royal Commission in regards to this disgraceful outrage and they can be referenced if needed by any interested parties.

Thousands of vulnerable “green card” inmates have been violently attacked and left with permanent injuries as well as hundreds of rages and sexual assaults committed due to this appalling green card system which is meant to protect the most vulnerable inmates. It’s wrong.

Also, often vulnerable “green card” inmates are stood over by their cell mate carer and are forced to surrender their food and buy groceries for the normal inmate. Some feeble minded or down right scared “green card” inmates even have their family forced to pay tens of thousands of dollars to the normal inmate who preys on the vulnerable “green card” inmate with extortion and stand over tactics. I knew of one incident where a mentally disabled inmate that was apparently gay was completely exploited by his supposed carer inmate that DS NSW forced him to have. The normal inmate pimped the mentally disabled inmate out to other inmates forcing the “green card” feeble minded inmate to perform blow jobs on other inmates for money. The so-called carer, assigned to this vulnerable “green card” inmate was profiting from his forced sex servitude. Keep in mind, this incident and thousands of others is caused directly by DCS NSW nominating random inmates as full-time carers for their most vulnerable inmates. This practice has gone on for over 20 years. It’s nothing less than evil. Thousands of mentally ill and physically and mentally disabled inmates deserve compensation for the forced physical violence and rapes forced upon them through this DCS NSW policy.

**The damage and fallout caused by the Racial Apartheid Regime at Goulburn Max over 20 years**

Recently DCS NSW admitted that it had been illegally racially, religiously and ethnically separating inmates at Goulburn Max for 20 years.

Inmates that were victims of this regime deserve to be compensated.

The fact that DCS NSW got away with such an egregious policy for so long is an indictment upon itself. Previously, upper management has denied that this practice existed. A blatant bald-faced lie. I have evidence of this. It is indeed a great thing that Apartheid Goulburn is over, however the chronic psychological damage and mental health trauma caused by this racist, bigoted policy must be held to account.

20 Years of discrimination and hatred forced upon inmates because of their skin colour, race or religion must be reconciled. It is another disgrace that shows DCS NSW’s latent colonial toxic culture that is imbibed throughout its archaic system. This racist policy caused thousands of violent acts, producing numerous victims. Instead of reducing violence, it inflamed hatred by teaching inmates that racial and religious apartheid was okay in one of the world’s most successful multi-cultural countries.

Instead of teaching and running courses on racial harmony and equality, DCS NSW taught and supported fascist, autocratic racial hate separation, fuelling the fires of racial superiority, Islamic extremism and Neo-Nazi ideals. These specific yards with these specific race power ideals were supported and enforced by DCS NSW, such as the Sunni/Wahabi Muslim yard where Sharia law was allowed to be practiced.

The “Koori” blacks only yard or the insidious White supremacy Neo-Nazi “Blue Yard”. There were others like the “Aussie/Islander yard” and the “Aussie/Asian yard”. Literally an international embarrassment that should have ceased upon the end of South Africa’s Apartheid which the Australian Government and people absolutely abhorred. This previous system caused deaths.

Compensation must be paid to the thousands of inmates that were forcibly brain washed with racial and religious superiority ideals by this system of hate created by DCS NSW. The creators and main enforcers of this system should be investigated and criminally charged for hate crimes.

It cannot be stressed enough, the absolute chronic mental and psychological damage and trauma done to inmates’ minds, bodies and souls by this evil act. On top of compensation, all inmates that were exposed to this forced mind derangement need intense counselling and re-training in racial harmony.

**Lack of standard care for War Veterans and Ex-Military personnel**

If an inmate enters custody, who is a war veteran or previous ADF employee, essentially all contact and assistance with Veterans Affairs and its bureaucratic components ceases. This causes more self-harm and suicides. Many Veterans and Ex-service ADF personnel enter custody for mental health related reasons that are a major component to their offending and charges in various dynamic ways.

Just as the suicide rate of Veterans and Ex-service personnel outside in the community is disproportionately high due to chronic lack of mental health care, in person this same situation is highly exacerbated and mental health care specialised for their needs is non-existent.

Any specific and tailored mental health plan that a Veteran or Ex-service ADF person was on outside immediately ceases upon entry to custody with no follow-up, compassion or care. These people are chewed up and spat out by the system and nation they most diligently served. It’s a monumental disgrace. It’s another damning indictment of being treated as sub-human within DCS NSW and other state’s prisons.

**Jason Maloney**

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