

Dana Joel  
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TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE  
ON  
THE PRIVATIZATION OF PRISONS

March 14, 1991  
Harrisburg, Pennsylvania  
Dana C. Joel

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Thank you for the opportunity to speak before the House Judiciary Committee today. My name is Dana Joel, and I am State Projects Research Analyst with Citizens for a Sound Economy Foundation in Washington, D.C., a non-profit, non-partisan educational institution with an active membership of 250,000 members, <sup>including</sup> I am pleased to be here <sup>on</sup> ~~in~~ behalf of Don Eberly, <sup>President</sup> ~~Executive Director~~ of the Commonwealth Foundation, and his staff to speak on the subject of prison privatization. In addition to my testimony, I would like to include for the record an article ~~co-wrote for~~ <sup>in</sup> the Legal Times in January 1990 entitled, "Punishment and the Profit Motive."

Pennsylvania's prisons and jails, <sup>like many</sup> ~~not unique to~~ correction facilities across the nation, are filled way beyond capacity. State and local spending for corrections outpaces all other budget items, yet prisons are not being built fast enough to keep up with the population explosion. And the opportunity to build and upgrade prisons is now more limited than ever, as state and county governments face fiscal pressures to reign in their budgets. Meanwhile, the quality of facilities continues to deteriorate.

Prison privatization--contracting out to the private sector to manage ~~and/or~~ own facilities--is a promising solution for dealing with the prison crisis. Because private operators are less constrained than the government by bureaucratic red-tape and costly regulations, they are able to deliver ~~this~~ service at a

lower cost. And opening up corrections to the free market system ~~will~~ ensure a higher quality of service, as vendors compete for contracts.

The privatization of prisons and jails is not new. The theory is supported by a track-record dating <sup>back</sup> more than a decade, which wa spurred by the public sector's inability to tackle the crisis alone. Since the early 1980's, many jurisdictions ranging from the county level to the federal level have turned to private firms to design, finance, build, and operate correction facilities. As many as 39 states contract out for the operation, alone, as does the federal Bureau of Prisons, U.S. Marshals Service, and Immigration and Naturalization Service.

Prison privatization is not limited to non-secure prisons and jails. As of the summer of 1990, 17 jurisdictions contracted out the operation of more than 65 adult, secure facilities holding more than 14,000 beds. And an additional 4,000 beds have been approved for use in the near future. As a reporter for The New York Times astutely observed in 1989, "Governments are turning to these private groups because they cannot handle the problem themselves." (Lisa Belkin, "Rise of Private Prisons: How Much of a Bargain?" The New York Times, March 27, 1989.)

#### COST SAVINGS

As spending for corrections increasingly consumes larger pieces of the budget pie, one of the most appealing aspects of prison privatization is the potential cost savings. Based on a

survey conducted by Touche Ross and Co. (now Deloitte and Touche) in 1987, the majority of government officials listed cost savings as the number one reason for contracting out corrections to the private sector. (Touch Ross and Co., Privatization in America, 1987.) The private sector achieves cost savings, for example, through innovative measures not as easily adopted at the government level.

Prison privatization's critics argue that it is not possible to be innovative and to cut costs in corrections. They contend that the function--that of sheltering and feeding prisoners--is the same whether provided by a government agency or a private firm.

<sup>A</sup>  
~~But the~~ number of private entrepreneurs ~~who are~~ employing <sup>the</sup> innovative, cost-saving approaches proves that such claims are wrong. Many firms keep costs down by shopping around for better ~~bargain~~ prices, purchasing supplies in bulk, and paying in cash rather than credit. Others use innovative architectural designs and technology. Corrections Corporation of America <sup>(CCA)</sup> based in Tennessee, for example, has installed in most of its 16 facilities video cameras in the corridors and motion detectors along the fences to sound an alarm in the event of an escape. By upgrading surveillance, CCA eliminates unnecessary manpower. While these options are certainly open to the public sector, the government is more constrained by restrictions and red-tape which inhibits/ speedy and creative responses to ~~immediate~~ correctional needs.

Critics warn that private operators will try to save pennies both by reducing key personnel and by cutting back on employees' wages. Yet the evidence does not support this. By no means atypical, CCA increased the number of employees from 58 to 72 after it won the contract to run the Silverdale Detention facility in Hamilton County, Tennessee.

Among most private vendors, private workers' salaries remain competitive with government workers'. Some even have a stock ownership plan allowing employees the option of buying into the corporation. Operators do keep costs down by eliminating unnecessary overtime and reducing inflated benefits typically found in the public sector.

The actual amount of reported cost savings can vary. In 1986, U.S. Corrections Corporation (USCC) located in Kentucky reportedly saved the state \$400,000 for the year by managing the Marion Adjustment Center in St. Mary, Kentucky. While the cost to the state to run the prison had been estimated at \$40 per inmate a day, USCC charged the state a per diem fee of \$25. And CCA charged Bay County \$29.81 to run the Bay County Jail, compared to the county's calculated cost of \$38. The annual cost savings: \$700,000.

The most recent cost study was conducted for the National Institute of Justice, the research arm of the U.S. Department of Justice. The authors compared the costs of CCA's Silverdale facility with the costs that would have been incurred had the county continued to run the prisons. Using conservative county

cost estimates, the researchers concluded that CCA saved the government between 4 and 15 percent over a three-year period. (Charles H. Logan and Bill McGriff, "Comparing Costs of Public and Private Prisons: A Case Study," NIJ Reports, National Institute of Justice, U.S. Department of Justice, September/October 1989.)

### QUALITY

Despite the substandard conditions of most of this nation's prisons, critics are concerned quality will deteriorate even further under private management as contractors attempt to keep down costs. However, this will not be the case as long as <sup>can be enacted that</sup> legislation ~~ensures~~ that the operator is accountable. As is the case with almost all privately run prisons and jails, the operators <sup>can</sup> ~~should~~ be watched very closely by the agency to assure that standards are being met. This <sup>could</sup> ~~should~~ include the requirement for periodic reporting; immediate notification in cases of inmate escapes, injuries, and deaths; and on-site inspections by <sup>the</sup> agency ~~monitors~~. My understanding is that these items are included in the draft legislation.

There are numerous documented examples of private operators who substantially improved the facility's condition. ~~For~~ ~~example:~~ <sup>T</sup> the Silverdale prison, <sup>for instance</sup> ~~which~~ is monitored by <sup>its</sup> ~~the~~ facility's former warden. He reported <sup>s</sup> that CCA made improvements in five areas: the physical facility, the system of classifying prisoners, the staff's treatment of prisoners, the disciplinary

system, and the medical care. (Samuel Jan Brakel, "Prison Management, Private Enterprise Style: The Inmate's Evaluation," New England Journal on Criminal and Civil Confinement, Summer 1988.)

CCA also upgraded Florida's Bay County Jail. When the government ran the prison, there had been several lawsuits pending against the county for crowded conditions, fire safety violations, and inadequate medical treatment. Seven months after CCA signed the contract, the lawsuits were dropped as a result of notable improvements, including a new 174-bed work camp and a rehabilitation program at no extra charge to the ~~government~~<sup>tax payer</sup>.

A study conducted by the Urban Institute in 1989 compares quality between the private Marion Adjustment Center and the public Blackburn Correctional Complex, both located in Kentucky. Based on surveys and interviews with prison staff and inmates, as well as personal visits and review of agency records, the authors evaluated the prisons' physical conditions, escape rates, security and control, prisoners' physical and mental health, and rehabilitation methods as measured by recidivism rates. The study concludes that "by and large, both staff and inmates gave better ratings to the services and programs at the privately-operated facilities: escape rates were lower; there were fewer disturbances by inmates; and in general, staff and offenders felt more comfortable at the privately-operated facilities." (Urban Institute, Comparisons of Privately and Publicly Operated

Corrections Facilities in Kentucky and Massachusetts, August 1989.)

No one will dispute the advantages of competition. Opening the market to competition assures that all vendors will provide the best quality of service at the lowest possible cost. The U.S. Corrections Corporation won the contract to own and operate the minimum-secure Marion Adjustment Center by out-performing the original winner of the contract. Kentucky rewarded USCC with the contract after the original bidder failed to secure the location of the facility under the terms of the contract.

**OTHER CONCERNS: AN "ENTRENCHED" INTEREST GROUP**

Critics argue that with the continuing trend of prison privatization, a future corrections industry of politically entrenched private operators will lobby to influence government policy. They fear that the private sector's penetration in the corrections industry potentially would develop into a strong lobby group pushing for longer sentences to incarcerate more individuals.

Critics fail to explain how private providers would gain more political power than do private providers of other government services. Private firms that handle solid-waste disposal in landfills do not lobby against recycling. Or, as City University of New York professor and author E.S. Savas notes, operators of daycare centers do not lobby against birth-control and abortion. (E.S. Savas, Privatization: The Key to



Better Government, New Jersey: Chatham House Publishers, Inc., 1987.) Were private vendors able to mobilize to politically influence the length of prison sentences, it would only be because they had the support of the general public which has advocated harsher sentences for over a decade.

But this is not likely. Prison privatization <sup>can create</sup> ~~is not meant~~ ~~to replace the government's provision of corrections, but to~~ ~~provide an~~ additional source of services with additional and improved capacity.

The <sup>critics'</sup> premise assumes that private operators will be desperate for inmates to fill their cells--a difficult situation to imagine. The day when there is a shortage of prisoners is, unfortunately, far off. But should the rising prison population taper off, the private operator more so than the government has enormous flexibility to adjust to population changes. Facing a decline in the number of inmates, the firm for example could save money by cutting back on staff and eliminating certain services which are not necessary with fewer prisoners, such as elaborate recreational programs provided as a crowd-control against inmate violence.

Despite some of these objections to the privatization of prisons by a small but loud minority, private operation of correction facilities has been gaining acceptance and support among a broad range of groups, including state legislatures;

federal, state and county correctional agencies; the media, and--most significantly--the general public.

As long as the prison population continues to spiral upward, the private sector will fill a void in corrections. As more lawmakers look for ways to save money on prisons while improving quality, prison privatization stands out as an excellent approach.

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