



# COUNTY COMMISSIONERS ASSOCIATION OF PENNSYLVANIA

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**TESTIMONY PRESENTED TO  
THE PENNSYLVANIA STATE HOUSE OF REPRESENTATIVES  
JUDICIARY COMMITTEE  
SUBCOMMITTEE ON CRIME AND CORRECTIONS HEARING  
HOUSE BILL 246 - PRIVATIZATION OF PRISONS**

**PRESENTED BY MARY BETH RHODES, GOVERNMENT AFFAIRS SPECIALIST  
COUNTY COMMISSIONERS ASSOCIATION OF PENNSYLVANIA**

**APRIL 24, 1996**



Good Afternoon. My name is Mary Beth Rhodes, and I am the Government Affairs Specialist for the County Commissioners Association of Pennsylvania (CCAP), a non-profit, non-partisan association representing all of the Commonwealth's 67 counties.

I am pleased to appear before you today to present our comments on the privatization of prisons.

The CCAP, recognizing the role counties play as major partners in the correctional system, has long been concerned with the financial burden of operating correctional facilities issues. There are many causes of, and solutions to, this problem. We view the use of private prisons not as an ultimate solution, but as only one of these solutions.

The Association supports legislation authorizing privately-owned or privately-operated prisons in the Commonwealth of Pennsylvania only if the legislation includes: strict and comprehensive regulation by the Department of Corrections; recognition of legitimate host county concerns; limitation of the use of private prisons for minimum security prisoners; and prohibition of the use of private prisons to house out-of-state prisoners.

Privatization as a concept should not be based on the simple notion that the private sector can do things better and at less cost than the public sector. A generalization such as this is simply not true. We cannot regard the private sector and public sector

as interchangeable. The tasks and activities that government engages in are different from those typically carried out by the private sector. Private sector involvement in public sector activities ought to be viewed as a partnership, not as an either/or proposition. CCAP views private prisons as an option to be approached with great caution.

We should look at specific tasks and functions which the private sector has some unique expertise and capacity to provide in a cost effective manner. In a correctional environment it might be: construction; maintenance; medical services; treatment or rehabilitative services including residential programs.

We note that the majority of counties are already "privatized" in some respect. Common practice is for counties to contract with private companies for services such as health care, commissary, and food services. We hope that each of these types of arrangements are considered and appropriately treated.

Government contracting has not traditionally involved those activities directly related to the exercise of government's coercive authority over its citizens. There is simply no basis for concluding that the private sector has any unique expertise or capacity to carry out those functions. Where there is a component of coercive authority exercised through the use of physical force, including deadly force, there is concern about the involvement of non-governmental, for profit entities. Where such authority is not a component, then the decision about privatization should be left to an assessment of whether privatization of normally public sector activities provides an

opportunity to bring an added quality of expertise and service to a particular function. Therefore, we recommend legislation to extend to counties a legal capacity to contract only for the incarceration of low-risk offenders.

Although we support strict and comprehensive regulation by the Department of Corrections, we caution that a thorough look at this process is necessary. We must look at whether the cost of licensing and regulating the facility, along with the bonding and insurance requirements, would be cost prohibitive for county and state governments. We must be careful not to add an unnecessary correctional capacity at an increased cost to both county and state government.

CCAP also supports the concept of limiting private contracts to in-state inmates. Pennsylvania has already experienced a problem with this concept in the juvenile justice system. Some juvenile facilities in Pennsylvania accept juvenile offenders from other states, at a higher fee, and no longer have room for their own juvenile offenders. This situation also contributes to the overcrowding in juvenile institutions as well as longer stays for juveniles in detention centers prior to their placement.

Currently 13 states operate privately managed prisons. The impetus for these developments of privatization began in 1979 when the Immigration and naturalization service contracted with private firms to detain illegal immigrants. By 1994, privately managed prisons were operating in 13 states; 36 states permitted them. Inmates in these prisons represented just 2 percent of the total inmate population nationally, although there have been

reports that the number of inmates in privately run prisons was growing at four times the rate of the general population.

The Corrections Corporation of America (CCA), a private contractor based in Nashville, began contracting with state and local governments to operate prison and jail systems in the mid-1980's. Now CCA is the largest private prison contractor, operating 37 facilities in the U.S. with 15,000 inmates.

As you are aware, the Private Prison Moratorium and Study Act, approved March 21, 1986 (Act 1986-19), imposed a moratorium on the operation of private prisons and created a legislative task force known as the Private Prison Task Force to study the issue of private correctional facilities in Pennsylvania. The act was the culmination of various events that had occurred in the Commonwealth during the 1985-86 legislative session.

On March 15, 1986, fifty-five inmates from a jail in Washington, D.C., under court order to reduce its inmate population, arrived at the 268 Center in Armstrong County, a private for-profit correctional facility. Prior to the arrival, the 268 Center housed inmates from the Allegheny County Jail (also under a court order to reduce overcrowding). The Attorney General of the Commonwealth, claiming that the 268 Center was not equipped to handle the out-of-state inmates, obtained a commonwealth Court injunction requiring the inmates to be removed by March 18, 1986. Judge David W. Caig found that "because of inherent limitations of the 268 Center facility and the serious lack of coordination and communication between the government agencies involved, disposition of the present group

of prisoners from the District of Columbia to the 268 Center presents a clear and present danger and threat of irreparable harm to the public welfare and interest..." Order of Commonwealth Court dated March 15, 1886 (No. 672 of 1986). A few days after the prisoners left the jail, the General assembly approved the legislation for the moratorium and study. The Private Prison Moratorium and Study Act was the first legislative expression regarding the operation of private prisons in Pennsylvania.

Finally, it is only a myth that the high cost of incarceration is a result of amenities provided to inmates such as cable television, law libraries and weight-lifting equipment. Actually, four out of every five dollars of prison operating costs go for employee salaries and facility maintenance. On top of that, debt service to finance prison construction triples the original cost of building prison beds. Of utmost concern, is that costs have grown substantially due to the health care needs of an increasingly aging and AIDS-afflicted inmate population.

Thank you for giving us this opportunity to present our comments. We would be pleased to answer any questions or furnish additional information.